Examination of Certain Policies, Procedures, Controls, and Financial Activity of the Former Administration of the Kentucky Department of Agriculture

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April 30, 2012

James Comer, Commissioner
Kentucky Department of Agriculture
111 Corporate Drive
Frankfort, Kentucky 40601

RE: Examination of Certain Policies, Procedures, Controls, and Financial Activity of the Former Administration of the Kentucky Department of Agriculture

Dear Commissioner Comer:

We have completed our examination of the Examination of Certain Policies, Procedures, Controls, and Financial Activity of the Former Administration of the Kentucky Department of Agriculture. The enclosed report presents, in total, 41 findings and offers approximately 126 recommendations to strengthen KDA controls and management oversight procedures.

As requested, the objectives of this audit were "thorough and sweeping" and encompassed a broad review of the administrative practices and fiscal management of the Department of Agriculture under the administration of the former KDA Commissioner. Procedures performed during the examination include interviews with over 50 individuals, including current and former KDA staff and others. To complete this examination, the APA reviewed thousands of documents, including emails, invoices, reports, policies, timesheets, travel vouchers, and personnel files. These and other items were analyzed relative to the objectives of this examination. The scope of this examination includes a review of certain policies, records, activities, and information for the period of January 1, 2004 through December 31, 2011, with an emphasis on the last four years; however, the time periods used in the report vary due to the date of various issues reviewed and the availability of the information.

The purpose of this examination was not to provide an opinion on the financial statements or activities, but to ensure processes are in place to provide strong oversight of financial activity and programs and to review specific issues brought to the attention of this office.

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Due to the nature of certain findings discussed within this report, we are referring issues within the report to the Kentucky Office of the Attorney General, Kentucky Executive Branch Ethics Commission, Kentucky Personnel Board, Kentucky Department of Revenue, Kentucky Department of Fish and Wildlife, Kentucky Agricultural Development Board, Internal Revenue Service, and the United States Department of the Interior Office of Inspector General.

The Auditor of Public Accounts requests a report from KDA on the implementation of the examination recommendations within (60) days of the completion of the final report. If you wish to discuss this report further, please contact me or Brian Lykins, Executive Director of the Office of Technology and Special Audits.

Respectfully submitted,

Adam Edelen
Auditor of Public Accounts

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Examination Objectives

On January 11, 2012, the Commissioner of the Kentucky Department of Agriculture (KDA) formally requested that the Auditor of Public Accounts (APA) conduct a special examination of the KDA that would be "thorough and sweeping." The Commissioner indicated to the press that in his first five days on the job, employees came forward with "several potentially troubling allegations" involving the administration of his predecessor. At a joint press conference later that day with the Agriculture Commissioner, the State Auditor agreed to take a broad look into the "administrative practices and fiscal management of the Department of Agriculture" under the two terms of the last KDA Commissioner (former Commissioner).

The scope of this examination includes records, activities, and information for the period of January 1, 2004 through December 31, 2011, with an emphasis on the last four years; however, the time periods used in the report vary due to the dates of the issues and the availability of the information. Thousands of documents, including emails, invoices, reports, policies, timesheets, travel vouchers, and personnel files, were supplied by KDA staff, former staff, and other entities. These and other items were analyzed in relation to the objectives of this examination.

The APA conducted interviews with over 50 individuals, often following up on the initial interviews with phone conversations, emails, and additional meetings. The APA attempted to interview the former Commissioner; however, the former Commissioner declined to be interviewed.

Background

Organization

At the end of the examination period, KDA had 302 personnel positions, 36 of which were vacant. KDA is organized into five executive offices including the Office of the Commissioner, the Office for Consumer and Environmental Protection, the Office of Agriculture Marketing and Product Promotion, the Office of the State Veterinarian, and the Office for Strategic Planning and Administration.

The Office for Consumer and Environmental Protection oversees the regulation and inspection of a variety of industries, as well as, acting as a distribution agent for USDA commodities to eligible recipient agencies. Staff within the office provide regulation and inspections of items such as pesticides, amusement rides, motor fuel and motor fuel dispensers, retail scanners and scales, and grain dealers.

The Office of Agriculture Marketing and Product Promotion assists farmers, agricultural businesses, and commodity groups in promoting and marketing their products by expanding existing markets, as well as developing domestic and international markets. Specific services provided by staff include farm safety courses, gathering and reporting agriculture market information, promoting products through the Kentucky Proud (KY Proud) program, and sponsoring over 100 livestock shows.

The Office of the State Veterinarian is organized into two divisions. The Division of Animal Health consists of the Investigator Branch and the Records Branch and the Division of Producer Services consists of the Equine Branch, Financial Branch, and Inspection Staff Branch. The divisions monitor eight animals, which include honeybees, bovine, camelids, cervids, equine, poultry, sheep and goats, and swine.

The Office for Strategic Planning and Administration provides the administrative support structure of the agency through internal human resources oversight, information technology support, budgetary oversight, and financial processing.

In addition to the many areas of day-to-day responsibilities, KDA routinely plans and/or participates in many conferences, shows, and special events held annually in Kentucky. Such activities include the Kentucky State Fair, the Incredible Food Show, Kentucky Crafted: The Market, the North American International Livestock Exposition, and the

Kentucky High School Athletic Association Sweet Sixteen State Basketball Tournaments.

During the period audited, KDA also provided a tremendous amount of staff time and other resources to the 2010 Alltech FEI World Equestrian Games (WEG) and the 2008 Annual Meeting of the Southern Association of State Departments of Agriculture (SASDA), both of which were hosted by Kentucky in the years noted.

KDA is also responsible for the oversight of or participation on seven different agriculture related boards and councils.

KDA Funding

KDA receives funding from three primary sources, including General Fund appropriations, federal funding, and restricted funds stemming from agency collected revenues such as licensure fees. While an economic downturn has caused General Funds to become a smaller portion of the overall funding allocation for KDA, allocations from Federal Funds and Restricted Funds were at an eight-year high during Fiscal Year (FY) 2012. Total General Fund appropriations in FY 2012 were $17,018,800, lower than the $19,010,000 in FY 2005. Restricted funding is $15,288,200 in FY 2012, which is an increase from the $9,201,300 in FY 2005. Federal funding revenue in FY 2012 is $5,853,400, an increase from the $4,813,300 in FY 2005. In total, the FY 2012 budget for KDA is $38,160,400, which is an increase from the $33,024,600 in FY 2005.

Approximately 70 to 80 percent the KDA budgeted revenue is expended on personnel and operating costs each year. Total budgeted expenses for these categories are $24,295,700 in FY 2012. In addition, KDA spent $4 to $7 million each year since FY 2005 on grants, loans, or other benefits, with a budgeted amount of $4,857,400 in FY 2012.

2008 Southern Association of State Departments of Agriculture Annual Conference

The Southern Association of State Departments of Agriculture (SASDA) is an organization comprised of the commissioners and secretaries of the departments of agriculture for 17 states, including Kentucky. In 2008, the former Commissioner was the President of SASDA, making Kentucky the host state for the annual conference.

According to the accounting records, revenues and expenditures for the 2008 conference were each $208,851, once the checking account was closed out. Sponsorships and attendee registrations made up the majority of the revenues for the conference, totaling $194,650. Sponsorships for the conference totaled $164,450, comprised primarily of donations from agriculture-related vendors and associations. Records indicate that at least seven of the sponsoring vendors are regulated by KDA, but since KDA did not retain any documentation showing whether or how these vendors were solicited for the sponsorship, it is not possible to determine if there was any conflict of interest. Registrations accounted for $30,200 of the 2008 conference revenues, with the 53 registrations paid for by KDA accounting for approximately half of that amount collected due to many of the attendees receiving registrations as part of a sponsorship.

The majority of the expenditures for the 2008 annual meeting went toward hotel expenses, trips, entertainment, gifts, and food. Hotel expenses were the greatest single expense, costing $67,730 for room rentals of attendees, conference space, and dinners. Gifts for commissioners, spouses, and other attendees accounted for approximately $61,085 in expenses. Expenses for activities and taking attendees on trips to various locations around the state cost approximately $46,597. Costs for entertainment, additional food, and supplies were a cumulative $15,264.

In addition to the expenses recorded through the 2008 SASDA annual meeting checking account, KDA incurred other costs in hosting the event. KDA incurred over $13,000 in direct expenditures for hotel rooms of employees working and attending the meeting, van rentals, and printing services. KDA incurred an estimated $52,310 in costs for 39 KDA employees to provide staffing for the conference. Combined with over $30,000 expended by KDA either through direct payments to SASDA or through a grant to an agriculture association, the annual conference resulted in an estimated cost to the state of $96,221. It is unclear what overall benefit Kentucky received from these expenses.

Findings and Recommendations

Finding 1: KDA expended approximately $30,000 of state funds to offset the cost of the 2008 SASDA conference.

KDA expended approximately $30,000 of KDA's General Fund money to offset the costs of the 2008 SASDA conference hosted by KDA when the former Commissioner was the SASDA President. Approximately 50 percent of the funding provided by KDA in support of the conference was made through two grants it awarded to two organizations. KDA made the grants with the understanding that a portion of the funds would subsequently be used to offset conference costs. In addition, KDA paid a "registration fee" for dozens of KDA employees, the majority of whom did not attend conference sessions but rather worked the conference performing various tasks, including driving conference attendees around town, providing childcare, and distributing gifts to attendees' hotel rooms. KDA not only funded approximately $30,000 of the 2008 SASDA conference costs with public funds, but did so in a questionable and non-transparent manner.

Recommendations: We recommend KDA refrain from using grant funds to subsidize its conferences or general administrative expenses. Grant funds awarded by KDA should be awarded without stipulations, and used strictly in compliance with the written grant terms. We recommend KDA pay the registration fees to conferences only for a reasonable number of employees, who will actually be attending conference sessions, and ensure that registrants are clearly notified of their registration and the expectation to attend. Further, KDA should ensure a reasonable number of employees are authorized to work a conference when hosting an event.

Finding 2: KDA incurred direct expenditures for 2008 SASDA conference.

KDA incurred over $13,000 in direct expenditures for the 2008 SASDA conference, in addition to the state funds paid to other organizations to offset conference costs and the cost of employees' wages and overtime as discussed in Finding 1. These expenditures, paid from the KDA General Fund, include costs for KDA employee hotel rooms, van rentals to transport conference attendees during the week of the conference, pocket schedule cards for attendees, and two banner signs to be displayed during the conference.

Recommendations: We recommend KDA scrutinize the use of the agency's General Fund and other public funds to pay the expenses for conferences it may host to ensure that the expenditure of public funds are for public purposes only, and that the expenditure provides a direct benefit to KDA or its programs. We further recommend that any non-public source of funds dedicated to host a conference be used to pay the expenses of the conference.

Finding 3: KDA purchased an excessive number of gifts in association with the 2008 SASDA conference and failed to formally track the final distribution of the excess purchases.

In association with the 2008 SASDA conference, KDA purchased an excessive number of items reportedly intended as gifts for visiting state commissioners, spouses, guests, and KDA employees. Through documentation provided by KDA and interviews with current and former KDA personnel and others, it is our understanding that the excess orders were made at the direction of the former Commissioner with the majority of the excess items reportedly taken to the former Commissioner's home after the conference. KDA did not formally track the final distribution of any of the excess items purchased or of those items donated.

Recommendations: We recommend KDA more closely scrutinize its purchasing orders to ensure that the orders are reflective of actual needs. The agency should refrain from purchasing items in excess of the number required. We also recommend KDA create a system to track items purchased for events it hosts or coordinates. KDA should ensure that the final distribution of purchased gift items are documented in writing and accurately reflect the final distribution of each item, including the name of the individual who received the item, the date the item was transferred to their possession, and the business purpose associated with providing the gift.

Finding 4: Former Commissioner took possession of 13 rifles purchased with SASDA funds and returned only seven, leaving six rifles unaccounted for.

On June 4, 2008, five days before the 2008 SASDA conference hosted by the former Commissioner, the former Commissioner went to a local vendor and took possession of 13 Remington rifles purchased with SASDA funds. In order to take possession of the firearms, the former Commissioner was required to complete and sign an OMB No. 1140-0020 Firearms Transaction Record indicating that he was the actual buyer of these 13 rifles. On January 17, 2012, the former Commissioner returned seven of these 13 rifles to KDA, leaving six additional rifles unaccounted for.

Recommendations: We recommend the KDA administration attempt to discuss with the former Commissioner the return of the six outstanding Remington rifles and, upon their return, ensure the rifles are used or disposed of for the best benefit to the public.

Finding 5: KDA employees were used extensively as the staff for the 2008 SASDA conference resulting in at least $52,310 in estimated costs to the state.

As host of the 2008 SASDA conference, KDA utilized numerous staff to carry out nearly all duties necessary to plan, organize, and produce the event. Based on a staff work assignment listing produced by the KDA staff that was in charge of organizing the conference, the APA has calculated that at least 39 employees contributed significantly to the SASDA-related work, with duties such as transporting conference attendees, escorting tour groups, conducting children's programs, and acting as general support staff. In total, the 39 staff worked an estimated 2,015 regular, compensatory (comp), and paid overtime hours with an estimated total cost to KDA of $52,310.

Recommendations: We recommend that KDA ensure that agency resources, including employees, are used in the best interests of the public and that an actual public benefit can be realized. In the future, KDA should ensure that any conferences hosted by the agency are done so with a reasonable and justifiable cost.

Finding 6: SASDA Hotel expenses used to benefit former Commissioner and his family.

On June 6, 2008, the KDA Administrative Branch Manager responsible for organizing the 2008 SASDA conference contacted a hotel representative and requested that additional rooms for the former Commissioner's extended family be billed to the SASDA account. The total cost for these additional rooms on the SASDA account was $1,380.30. In addition to this expense, the former Commissioner received over 55,000 hotel reward points, with a purchase value of approximately $688, on his personal hotel awards account for holding the conference at that venue. These points can also be exchanged for a meeting credit certificate valued at approximately $250.

Recommendations: We recommend KDA refrain from expending SASDA or other conference funds for personal benefit when hosting or organizing future conferences. KDA should ensure that the funds dedicated to a conference or other activity are expended for the intended public purpose. We further recommend that hotel reward points resulting from hosting or organizing a conference or event be used to offset future hotels costs for conferences or events and not be used to provide a personal benefit.

Finding 7: Additional hotel rooms were reserved at the Kentucky State Fair for KDA employees who were known not to be staying overnight, so the former Commissioner could have extra rooms at his disposal.

During the 2009 and 2010 Kentucky State Fairs, the former Personnel Director reserved rooms in the names of two KDA employees who she knew would not be staying overnight during the fair. According to the former Personnel Director, she reserved the additional rooms at the request of the former Director of Outreach and Development, because the former Commissioner had told him that he needed extra rooms. The former Personnel Director stated she was told by this Director to determine what employees would not be staying overnight at the fair and reserve the rooms under their names. While the purpose of the rooms was unspecified in the request made to the former Personnel Director, interviews with KDA staff and others indicate that the rooms were used for and occupied by the former Commissioner's family members.

Recommendations: We recommend that KDA follow the established approval and oversight process for all travel arrangements, including reservation of hotel rooms, regardless of the merit status of the employee. We further recommend that, through the established approval process, KDA ensure that state funds are not used to provide travel for the personal benefit of employees, employees' family members, or others. The misuse of state funds or attempts to misuse funds should be reported to agency management. If management is the source of the misuse, KDA staff should report such issues to an outside source such as the APA, Executive Branch Ethics Commission, or Attorney General's Office.

Finding 8: KDA reimbursed the former Commissioner for costs incurred at the Boys' Sweet Sixteen State Basketball Tournament although the necessity of the overnight travel was questionable.

During the former Commissioner's tenure with the KDA, Kentucky spent $8,843 to fund an annual trip taken by the former Commissioner to the Boys' Sweet Sixteen State Basketball Tournament (Boys' Sweet Sixteen) in Lexington, KY. Due to his status as an elected constitutional officer, reimbursement of expenses are not based on the requirement that an event is 40 miles from the employee's residence, as is required for other state employees, but it is required that the reimbursement be for a necessary expense incurred in connection with official business travel. The fact that KDA advertises its KY Proud program and maintains a booth at this event does not make it necessary for the KDA Commissioner to incur lodging expense by staying overnight to perform official business.

Recommendations: We recommend that KDA ensure that travel expenses requested by the KDA Commissioner are incurred for official business. We further recommend the cost of overnight travel be reimbursed only if it is necessary and provides a public benefit. Due to scarce public resources, every effort should be made to minimize travel cost, including costs associated with the Commissioner's travel.

Finding 9: Former Commissioner appears to have used his official position to obtain items for personal benefit.

The former Commissioner appears to have used his official position to obtain certain items for his personal benefit that were either donated to KDA by KY Proud vendors for promotional purposes, or were paid for with KDA general funds. This, in part, was able to occur due to lax controls over accounting for lower cost items, as no items under $500 are inventoried, and because of the authority of his position. This includes gift baskets of KY Proud items, wooden hats from a

KY Proud vendor, refrigerators, file cabinets, shirts, and laptops.

Recommendations: As stated in the recommendations for Finding 29, we recommend that KDA create, document, and implement a process to account for all KY Proud products held for promotional purposes. We also recommend that KDA evaluate the various clothing items purchased for staff to ensure the items are necessary, serve a public purpose, and are reasonable in amount. We further recommend that KDA tag and maintain an internal inventory of certain items that have been assigned to individuals, have a useful life of one year, and have a value of less than $500. Such items may include monitors, docking stations, monitor stands, printers, or cell phones.

Finding 10: Former Commissioner of Agriculture did not report numerous gifts given to him as required by the Executive Branch Code of Ethics.

Through the examination of KDA, auditors determined that the former Commissioner received numerous gifts from various sources during his tenure. According to the Executive Branch Code of Ethics, all public servants, such as the Commissioner of Agriculture, must report any gifts they have received that exceed $200 when filing the required Statement of Financial Disclosure form with the Executive Branch Ethics Commission. A review of the former Commissioner's Statement of Financial Disclosure forms for years 2004 through 2011 show that no gifts were ever reported since taking the position of Commissioner of Agriculture.

Recommendations: We recommend all officers and public servants, as defined by KRS 11A.010, submit a Statement of Financial Disclosure form to the Executive Branch Ethics Commission that includes all gifts received with a value over $200, as required by KRS 11A.050(3)(k).

Finding 11: KDA employees performed work at the former Commissioner's personal residence during a workday.

During the former KDA administration, KDA personnel worked to build a basketball court and retaining wall at the former Commissioner's residence. KDA personnel also moved a gun safe from the former Commissioner's garage into his basement, reportedly during work hours.

Recommendations: We recommend state personnel not be asked, or used, to perform personal errands for their state employer, or to move the employer's personal effects. Employees should not be placed in a position, in performing such actions, that they feel their employment could be jeopardized if they failed to do so.

Finding 12: KDA employees were directed to drive the former Commissioner on personal excursions.

During the examination, auditors received multiple reports from current and former KDA personnel and others regarding trips where the former Commissioner directed employees to either drive him or to accompany him in the Commissioner's KDA-assigned vehicle. KDA personnel questioned the appropriateness of performing these tasks, but often stated that they were doing what they were told to do. Some indicated they felt if they declined to travel with the former Commissioner, their employment with KDA would be jeopardized.

Recommendations: We recommend KDA personnel be trained as to the appropriate use of state time and resources. In light of KRS 11A.020, we recommend KDA seek training on this matter from the Kentucky Executive Branch Ethics Commission, as it is authorized, under that KRS 11A.060, to administer and enforce the provisions of the state's Executive Branch code of ethics.

Finding 13: KDA used proceeds from ginseng sale inconsistent with federal requirements.

Approximately six months after collecting over $241,000 from the surplus sale of wild American ginseng, KDA expended $43,000 of that amount toward the purchase of eight Ford Explorer vehicles for its Animal Enforcement Officers. As Animal Enforcement Officers do not perform duties associated with the ginseng program, this $43,000 expenditure did not meet the requirements set forth by the United States Fish and Wildlife Service (USFWS), which stated in an October 25, 2007 letter to KDA, "[t]he proceeds from the sale of this legally acquired ginseng shall be used by KDA exclusively for the purposes of promoting and educating all parties involved with the recording, harvest, purchase, sale, and transfer of ginseng."

Recommendations: We recommend KDA use the ginseng surplus proceeds solely for purposes that comply with USFWS criteria for the use of these funds, which states, "[t]he proceeds from the sale of this legally acquired ginseng shall be used by KDA exclusively for the purposes of promoting and educating all parties involved with the recording, harvest, purchase, sale, and transfer of ginseng." We also recommend KDA discuss this matter with the USFWS to determine how this issue may best be resolved. We further recommend that if proceeds are realized when fleet vehicles are disposed of, KDA should consider using these funds to restore the $43,000 to the ginseng account that was used toward the purchase of vehicles.

Finding 14: KDA paid a grant recipient the full grant amount without requiring the recipient to meet grant requirements.

On March 8, 2010, a KDA Staff Assistant with the KDA Office of Agriculture Marketing and Product Promotion emailed the former Commissioner to inform him of concerns he had with a grant recipient's performance involving a $15,000 matching grant. In this same email, the Staff Assistant suggested that KDA hold the remaining amount of the grant, $7,500, until KDA could "see actual purchases and performance coming closer in line with their promises." Three days later, the KDA employee authorized the release of the remainder of these grant funds to the grantee noting that he did so at the direction of the former Commissioner.

Recommendations: We recommend KDA require compliance with its grant agreements. KDA should ensure that tobacco settlement funds, for which it has oversight responsibility, are used solely for the intended purposes and that grant recipients are all held to the same performance standards.

Finding 15: KDA purchased two 60-inch televisions with questionable necessity to the agency.

In March 2010, KDA purchased two 60-inch televisions and the corresponding wall mounting brackets for a total cost of $4,192.75. One is mounted in an executive conference room, while the other is mounted in the Commissioner's office. The cost for each television was $1,971.99, and the cost for the mounting brackets was $124. The amount of $124.77 was paid for the expedited shipping charges of the mounting brackets, doubling the cost of the brackets. No official need or justification for such large and expensive televisions was provided by any KDA staff. Various staff stated in interviews that the expedited shipping charge for the brackets was to ensure that the televisions would be available in time for the former Commissioner to watch the NCAA basketball tournament.

Recommendations: We recommend KDA ensure that all purchases have a legitimate business purpose that can be justified as necessary expenses to carry out the mission of the agency. While agencies such as KDA should have discretion in the items purchased, they should be able to clearly demonstrate, when requested, the necessity of the purchase and how the expense benefitted the mission of the organization.

Finding 16: KDA reimbursed the former KDA Commissioner and other non-merit employees for questionable expenditures.

Questionable reimbursements were found in our judgmental sample of employee reimbursements. While reimbursement guidelines for elected officials differ from those for other state employees, only expenditures necessary for official business should be reimbursed. In certain instances, reimbursement documentation auditors reviewed did not identify the business purpose for the expenditure, and a few items for the former KDA Commissioner were placed on another employee's travel voucher. Requests for reimbursement were made for computer and cell phone equipment, as well as for gasoline purchases when the employee was reportedly driving a state vehicle.

Recommendations: We recommend KDA ensure requests for reimbursement are consistently supported by documentation that shows a necessary business purpose for the expenditure. We also recommend that requested reimbursements that may be questionable not be paid until documentation supporting the necessary business purpose of the expenditure is provided.

Finding 17: A former KDA employee received an estimated $70,457 in payments for work and mileage reimbursement where he did not appear to have produced any work product.

A former KDA employee appears to have been paid for work hours claimed that he did not work and reimbursement for mileage he did not incur on behalf of KDA. Based on a review of the former employee's timesheets, travel vouchers, and other documents for the time period of June 2007 through December 2011, it appears the former employee received payment for time claimed at unassigned work locations, when he did not produce required market reports, claiming to perform unknown work from home, and claiming more time than assigned duties required. The review also indicates that the employee received reimbursement for mileage for travel that appears to have either not occurred or was not incurred on the behalf of KDA. In total, the APA calculated that, at a minimum, the former employee was paid for 3,108 work hours and 11,958 travel miles where apparently no known work was produced. Total costs for these payments are estimated at $70,457.

Recommendations: We recommend KDA ensure all employees are properly assigned sufficient duties to create a full work schedule. We recommend all field staff, regardless of merit status, be assigned a direct supervisor that has the opportunity and capacity to attest that work duties are being completed and a final work product submitted when required. The field staff supervisors should be responsible for signing the employees' timesheets and travel vouchers. For those employees whose work time is segregated between various supervisors, all supervisors should sign timesheets and travel vouchers or otherwise document communication to a primary supervisor that the employee's work can be confirmed. KDA should avoid a conflict of interest by not allowing one immediate family member to supervise another. Immediate family members should not be allowed to sign the timesheets or travel vouchers of another family member. We also recommend KDA seek the assistance of the Executive Branch Ethics Commission to provide training to all KDA employees on the requirements of the Executive Branch Code of Ethics.

Finding 18: No significant work can be confirmed for a non-merit employee who had a personal relationship with the former Commissioner.
At the direction of the former Commissioner of Agriculture, a non-merit Staff Assistant with whom he had a prior personal relationship was hired and started employment on October 31, 2011 at a salary of $5,000 per month. According to interviews with KDA staff, the daily duties of the new Staff Assistant were not known and they rarely saw her at the KDA offices performing any work. Employees interviewed stated they seldom saw the new Staff Assistant in the office on work days, though two employees stated they witnessed her at the former Commissioner's home on at least two work days. While the Staff Assistant did take leave without pay for a total of 29.5 hours during her tenure at KDA, it does not appear to account for the significant amount of time staff members have stated she was missing from the office.
Recommendations: We recommend that KDA ensure all employees are accountable to perform their assigned duties and that those duties benefit the public through the mission of the agency. Supervisors should have direct knowledge and oversight of the employees' activities before signing timesheets. If a conflict of interest arises due to close personal relationships between the supervisor and employee, a separate supervisor should be assigned to sign the timesheet that will also have direct knowledge of the employee's activities.

Finding 19: A KDA Amusement Safety Inspector Supervisor appears to have received pay and the use of a state vehicle when no KDA-related work was performed.
Between June 10, 2011 and June 26, 2011, a GPS tracking unit was attached to a KDA vehicle issued to an Amusement Safety Inspector Supervisor. A comparison of the reports generated from the GPS device, the employee's timesheets, and the employee's submitted ride inspection forms indicates that the employee was paid for work days when no inspections were performed. The comparison also indicates that the employee charged more work hours than should have been required for the days that inspections were performed. Finally, the GPS report shows that the KDA-issued vehicle was used on days that the employee did not report any work hours, indicating that the vehicle was used for personal use. Only seventeen days of this employee's activity could be reviewed due to the GPS unit failing, which, according to certain KDA employees interviewed, may have been due to intentional tampering with the unit.

Recommendations: We recommend that KDA ensure that all information indicating that an employee is not properly executing their assigned duties be properly reported to all appropriate supervisors in a timely manner. We recommend the information be acted upon in a manner commensurate with the determined violation or infraction of state personnel law regardless of the relationship an employee may have with a supervisor or agency official. We also recommend KDA seek the assistance of the Executive Branch Ethics Commission to provide training to all KDA employees on the requirements of the Executive Branch Code of Ethics.

Finding 20: KDA appears to have preselected candidates for merit employment.
Auditors found evidence indicating the former KDA administration preselected candidates for appointments into KDA merit positions. This activity reportedly occurred at the direction of the former Commissioner who had the final appointing authority at KDA.
Recommendations: We recommend that KDA contact the State Personnel Cabinet to determine what training opportunities exist related to the best practices for hiring state employees. We recommend KDA ensure staff involved in the personnel process, including those involved in the interview and hiring process, receive adequate training to ensure their knowledge of proper personnel processes. We also recommend KDA interview panel members document in writing their recommended candidate, and that this documentation be filed and maintained in the individual interview files. We further recommend the appointing authority give serious consideration to the recommendations made by the interview panels. We further recommend that if the appointing authority chooses a candidate other than those recommended by the interview panel, that the appointing authority consider discussing the matter further with the interview panel members and document the decision in writing with an explanation to accompany the final decision.

Finding 21: The former KDA administration issued monetary awards, and at least one reclassification, without a recommendation from employees' supervisors.
According to former KDA management, the former KDA Commissioner, in certain instances, determined which employees received ACE awards or job reclassifications. Auditors were informed that the

determinations were made without input from employees' supervisors, and that the former Personnel Director would then create a justification to support the action.

Recommendations: We recommend KDA create a formal written process by which its personnel actions involving ACE awards and reclassifications will be awarded. KDA should ensure that the process includes input at the beginning of the process from immediate supervisors so that the justification for a personnel action is based on the quality of work and accomplishments of the employee.

Finding 22: A merit employee's job responsibilities were eliminated, but the action is not documented in his personnel file.

Numerous KDA staff interviewed by auditors stated that the job duties were taken away from the Assistant Director of the Regulation and Inspection Division. Employees were instructed not to assign any tasks or send telephone calls to or ask questions of the employee. This directive included taking away the employee's access to KDA computer databases. According to the Executive Director of the Office for Consumer and Environmental Protection, he was instructed to "put him in a corner" by the former Commissioner. No specific reason was provided as to why this action was warranted, nor did the employee's personnel evaluations support that this type of action was taken or that the employee was counseled about performance issues.

Recommendations: We recommend that KDA ensure that all employees are provided with specific job duties and responsibilities that reflect an employee's job classification within the agency's personnel structure. We further recommend that an employee's personnel record and performance evaluations document significant actions taken by management involving an employee.

Finding 23: KDA interview file documentation for hiring employees was incomplete.

In response to allegations received by auditors during multiple interviews with current and former KDA personnel, auditors examined various KDA interview files maintained by KDA's Division of Personnel and Budget related to hiring employees, and found that file documentation maintained by KDA was inconsistent, and in one case missing altogether.

Recommendations: We recommend KDA request training from the Personnel Cabinet regarding the proper documentation to maintain and process to follow when hiring an employee. We recommend that all KDA employees who are involved in the hiring process attend the training. After the training, we recommend KDA establish a written policy detailing the process that will be followed, documentation required to be retained, the documentation retention period, and the office responsible for retaining the information.

Finding 24: The timesheets of four KDA non-merit employees were signed by the former Personnel Director and not by a supervisor with direct oversight of the employees' work.

During the period under review, the timesheets of four non-merit Special Assistants within four KDA offices were signed by the former Personnel Director instead of officials within the four employees' assigned offices with direct oversight of the employees' work. In addition, the four employees were given either limited or no specific job duties. Without a supervisor to directly monitor employee activity and to approve their timesheets, an employee's performance and use of time cannot be accurately determined, regardless of whether the employee has merit or non-merit status. Also, the validity and necessity of these positions is questionable if there are either no assigned or limited duties for the employees to perform.

Recommendations: We recommend all field staff, regardless of merit status, be assigned a direct supervisor who has the opportunity and capacity to attest that work duties are being performed and completed. We also recommend that KDA only create employment positions that have specifically defined job duties and that are a necessary and justifiable expense of public funds. We also recommend KDA consider abolishing positions if the job tasks are not necessary to the daily functions of these offices. We further recommend that the Personnel Director only sign the timesheets of the employees directly supervised by the Personnel Director.

Finding 25: No entry level class exists for KDA amusement park inspectors.

During interviews with KDA personnel, auditors found that amusement park safety inspections were performed by employees working for KDA in a general series classification that requires no mechanical background, education, or experience. Given the mechanical equipment involved in amusement park rides, the popularity of such attractions, and the human safety risks associated with these rides, it seems reasonable that the job classification require some level of associated mechanical knowledge or experience.

Recommendations: We recommend KDA consider reviewing the Agriculture Inspector series to determine whether it would be reasonable to create an entry level position specific to the amusement ride inspections that requires some level of associated mechanical knowledge or experience, and, for at least an initial time period, inspections by entry level employees are to be performed under the direct oversight of a supervisor.

We further recommend KDA consider requiring inspector supervisors to be certified to perform amusement devise inspections.

Finding 26: A former Director was the sole employee in the "Division of Outreach and Development," which was not a legally recognized unit of KDA.

During an interview with the current Deputy Commissioner of Agriculture, he stated that he served as the Director of Outreach and Development under the previous KDA administration, and in that position he was a "division of one" with no other employees working in the division. While auditors confirmed the Director acted as a "division of one," personnel documentation indicated that the position of "Director of Outreach and Development" did not actually exist in KDA's official organizational structure, and that the employee's position was actually funded as part of the Division of Value-Added Animal and Aquaculture Production.

Recommendations: We recommend KDA review and reconcile its formal organizational structure to the actual structure under which KDA operates. KDA should ensure that its Master Position report properly reflects the duties, job functions, and responsibilities performed. We also recommend KDA ensure that a supervisory position is necessary, justified, and meets the requirements for such a position before placing an employee in the position. We further recommend KDA ensure that employees' duties properly reflect the job classification duties and responsibilities performed by the employee.

Finding 27: KDA staff incurred a significant amount of overtime and expenses for staffing the State Fair.

A significant amount of overtime was earned by KDA staff when working at the Kentucky State Fair. In addition, our Procard review found several expenditures for food and drinks incurred for the purpose of a hospitality room at the State Fair. While KDA has a very important role in this statewide event, KDA's management should control staff time and extra costs to keep these at a minimum.

Recommendations: We recommend KDA ensure only staff with specific responsibilities are used in support of the Kentucky State Fair. We also recommend that food and drink expenditures be reimbursed only if they are reasonable and necessary.

Finding 28: The operation of KDA's fuel and pesticide testing laboratory (Fuel Lab) cost KDA $903,389 in FY 2011, yet it has not reached the anticipated test sampling goals publicized when constructed at a cost of $1.65 million in FY 2008.

A new Fuel Lab, constructed for KDA in FY 2008, cost Kentucky $1.65 million and continues to incur significant costs to operate without having reached its anticipated test sampling goals. While the goal of testing 20,000 fuel samples was publicized to be reached during the Fuel Lab's first full year of operations, the Fuel Lab tested only 3,786 fuel samples that year. It is questionable whether enough research into the Fuel Lab's feasibility was conducted prior to KDA's request for its construction. If a feasibility study was conducted, the study and associated documentation was not maintained by KDA. The concept to increase test sampling and the desire to conduct these tests internally at KDA rather than paying an outside vendor is beneficial and important, but the publicized goals do not appear to have been realistic, and they have not been accomplished.

Recommendations: We recommend that KDA evaluate all aspects of the Fuel Lab to maximize the use of this facility and increase the testing of Kentucky's motor fuels and other types of fuel and pesticides. Efforts should be increased to contract with other states to assist KDA in funding the expenditures incurred for this testing now that the Fuel Lab has been established and meeting in compliance with the regulations of testing organizations.

Finding 29: During the audit period, KDA did not account for the disposition of promotional KY Proud products bought by KDA or received as donations from KY Proud vendors.

During the audit period, KDA tracked the use of KY Proud items with the KY Proud logo such as hats, pencils, and other items. In addition, KDA had established a system for staff members to request these items for events or other circumstances. However, KDA did not document the use of KY Proud products, nor did it have a process in place to ensure personnel were not accessing the products for their personal use. KY Proud products should be used to fulfill the purpose of the program, which is to promote the KY Proud vendors, and are not intended to be used for personal benefit.

Recommendations: We recommend that KDA create, document, and implement a process to account for all KY Proud products held for promotional purposes. Relevant information, including the cost, source, and business use of the products should be appropriately documented when the items are received and distributed. We further recommend that KDA continue to document and implement the process related to the newly created *KY Proud Basket Request Form*. KDA executive staff should use these forms to review the quantity and cost of the gift baskets to document that baskets are appropriately valued for each occasion and to determine whether the cost of the gift baskets is an effective method to achieve promotional objectives.

Finding 30: KDA had not established a regular inspection plan for testing motor fuel quality.
Under the former KDA administration, the KDA Division of Regulation and Inspection had not established an inspection plan for the testing of motor fuel quality, testing that they are statutorily required to perform. The number of motor fuels tested in Kentucky counties varied from 2009 to 2011. Auditors found KDA's inspectors performed inconsistent testing, as they did not sample motor fuels in some counties in Kentucky for two or three of the past five consecutive years. Additionally, stations in some counties whose motor fuel quality was tested failed the tests, but the stations were permitted to continue selling motor fuels without follow-up testing.
Recommendations: We recommend that KDA establish a systematic fuel inspection plan, which should include, at a minimum, a schedule to test motor fuel in each Kentucky county within a given time period. The plan should take into consideration the number of fuel stations in each county. KDA management should determine the best course of action to take in order to perform this testing and work into the plan the ability to inspect complaints with the staff available. Once testing of all stations is complete, KDA should start the cycle of inspection and testing again. We also recommend KDA develop a process to ensure that any and all motor fuel stations with any failures be re-tested before the station is permitted to continue selling their motor fuels.

Finding 31: KDA did not reimburse employees for home internet connections in a consistent or uniform manner.
KDA reimbursed up to 70 employees for home internet connections with individual monthly costs that varied from $14.95 per month to $97.64 per month for a total monthly expense to KDA of $2,352. These varied costs encompass both partial and full monthly costs for high-speed internet, and in at least one instance, it appears the cost may include the bundled costs of telephone services. The rate at which an employee gets reimbursed appears to depend on the supervisor that oversees an employee and the geographic location of the employee's workstation. The process was not administered in a uniform manner and there are no policies specifying the criteria for an employee to receive the reimbursement, the allowable reimbursement amount, or the services that may be included for reimbursement.
Recommendations: We recommend KDA conduct a thorough review to determine whether reimbursement for home internet service of certain field staff is a necessary expense to ensure that employees are able to effectively and efficiently carry out their assigned duties, or if other cost effective methods are available. If it is determined that such an expense is necessary and justified, we also recommend KDA develop a written policy that establishes the process for requesting and approving home internet reimbursement for field staff. The policy should establish clearly defined criteria for determining which employment positions should receive reimbursement to ensure personal prejudices do not come into play in the decision-making process. Final approval should be centralized with a single executive officer to ensure a consistent process is followed. The policy should also establish a standardized limit on the amount that may be reimbursed for all employees, based on the expected usage of the service for work purposes.

Finding 32: KDA inventory records were incomplete and not adequately maintained.
According to one KDA Executive Director, during the current Administration, KDA employees began to express concern that KDA did not have adequate internal controls to properly monitor inventory. After conducting several employee interviews and examining the inventory records for items valued between $500 and $5,000, auditors found that most items on the inventory list were over ten years old, and that the agency has struggled for years to maintain accurate inventory records.
Recommendations: We recommend KDA review its current inventory process to ensure adequate record keeping of its inventory items. If KDA maintains a separate inventory system outside of the state's accounting system, the agency should ensure there is a reasonable methodology by which to reconcile its records with the state's system so that the items can properly be accounted for during physical inventory counts. Finally, we recommend KDA assign appropriate personnel to maintain and monitor the inventory process and routinely perform spot checks of inventory items to ensure they are properly recorded and accounted for.

Finding 33: KDA tracking of Sweet Sixteen basketball tournament tickets.
During our examination period, a contract was entered into between the Kentucky High School Athletic Association (KHSAA) and KDA. According to the contract, KDA agreed to buy a merchandising package for the Boys' and Girls' Sweet Sixteen basketball tournaments. The merchandising package provided KDA with four Boys' Sweet Sixteen tickets in Section 30, Row AA, and four tickets in Sections 16 or 12 at no charge. KDA and KHSAA continued this annual agreement thru 2011. From 2007 through 2011, the

cost of the agreement ranged from $33,100 to $36,750 per year.

Recommendations: We recommend that KDA develop a policy that stipulates who is to receive sporting event tickets or other items received by KDA when entering into promotional or other contracts or activities. We recommend the policy require documentation be maintained to identify the number of tickets or other items that may be received, who initially received the tickets or other items, who ultimately received and used the tickets or other items, and the business purpose related to the use of the tickets or other items.

Finding 34: A KDA executive director and former director told staff to delay action regarding a grain dealer because it was an election year and may cause a negative political outcome for the former Commissioner.

The former Executive Director of the Officer of Consumer and Environmental Protection told the supervisor of inspectors for licensed grain dealers to avoid taking action on a licensee that, according to a grain inspection report, was in violation of the surety bond requirement under KRS 251.720(6).

Recommendations: KDA should not allow political considerations to interfere with the inspection and licensing process. Any such instances of interference should be reported to the Executive Branch Ethics Commission.

Finding 35: KDA is not adequately tracking fines it has issued and has no policy relating to probating those fines.

KDA, however, cannot accurately determine the amount of unpaid fines due to database system design limitations. The amount of unpaid fines is maintained primarily in the database system, but this system was designed for licensing purposes and not for tracking fines. The database system reports are in PDF format and the data is difficult to obtain in an electronic spreadsheet. Without a user-friendly data format to calculate outstanding fines, the data is difficult to use for managing outstanding fines, and the database system is inefficient for collecting fines. Also, the data within the database system has to be manually updated, and these manual changes have not always been updated in a timely manner. KDA does not have any written policies and procedures relating to the fine collection process.

Recommendations: We recommend that KDA develop and implement detailed policies and procedures for recording and collecting outstanding fines. We also recommend KDA develop a spreadsheet, or purchase software, that will capture fine history, allow for fine adjustments to be recorded, and generate detailed reports. KDA should provide training in tracking and collecting outstanding fines. KDA should routinely update, monitor, and test the validity of outstanding fine data.

Finding 36: KDA cannot determine whether maintaining its fleet of vehicles is the most cost efficient method and vehicle assignments comply with Finance Cabinet guidelines.

KDA manages its own fleet of vehicles but must follow the same guidelines established by Finance Cabinet for all other state vehicles. KDA currently owns 183 state vehicles with 132 staff having an assigned take home vehicles. While cost savings have been claimed for the internal management of the KDA fleet, these numbers were based on estimates instead of actual numbers. KDA is not required to justify their entire fleet of vehicles, but KDA is required to justify, at least annually, the assignment of take home vehicles. Based on these guidelines and KDA’s 2011 justification report, 24 of the take-home assignments are questionable. In addition, from 2010 to 2011, 11 staff were removed from the list of having state vehicles due to concerns that they did not meet the criteria of the Finance Cabinet

Recommendations: We recommend that KDA ensure that a comparison of the cost to operate an agency fleet rather than lease vehicles through the Finance Cabinet be based on available actual data to ensure a fair and accurate evaluation of the KDA fleet’s necessity. We also recommend KDA only request permanently assigned vehicles for those employees who fall within the permanently assigned vehicle requirements as set forth by the Finance Cabinet. KDA should review their current permanently assigned vehicle listing and ensure all of the Finance Cabinet’s criteria are met and that it is necessary and reasonable for an employee to be permanently assigned a vehicle. KDA should ensure that the mileage for each employee is maintained accurately in the system so that this review is based on complete mileage information. We further recommend KDA maintain a complete history of permanently assigned vehicles and the justifications that are submitted to the Finance Cabinet for approval. The justification for a permanent vehicle assignment should be sufficiently detailed for the Finance Cabinet to make an informed decision whether to approve the request. The information maintained should include all information pertinent to the employee, their job description, and work county, at a minimum. This information should be consolidated into a single, searchable database.

Finding 37: KDA exceeded its small purchase authority without initiating a contract.

KRS 45A.100(3) states that the Finance Cabinet may grant to any state agency a small purchase authority in accordance with regulations promulgated by the Finance Cabinet. In 2007, KDA was granted an increase in its small purchase authority from $1,000 to $5,000 that allowed KDA to purchase items or services, up to $5,000, without having to competitively bid for those goods or services costing less than $5,000. However, KDA procured services from a mobile car wash vendor that included services for hand washing cars, vans, sport utility vehicles, pick- up trucks, trailers, and other KDA vehicles and machinery. KDA paid the car wash vendor $5,855 in FY 2010 and $5,390 in FY 2011, which exceeded the KDA small purchase limit of $5,000.

Recommendations: We recommend that KDA follow all applicable statues and regulations concerning the purchase of goods and non-professional services. We recommend that KDA monitor all small purchases, whether through direct pay or Procard purchases, to ensure that they are not exceeding their small purchase authority by parceling, splitting, dividing, or scheduling payments over a period of time that may cause the $5,000 small purchase limit to be exceeded. If purchases exceed the $5,000 small purchase authority limit of KDA, the Finance Cabinet should be contacted to initiate a Master Agreement for solicitation.

Finding 38: KDA did not consistently report taxable income for the use of state vehicles, nor was any additional taxable income reported for employee benefits such as internet and cell phone costs.

The amounts reported by the KDA to the IRS as additional income to employees for employee benefits do not appear to be consistently or fully reported based on the employee benefits provided. KDA did not have policies related to employee benefit reporting even though KDA employees receive benefits related to vehicles, home internet costs, and the use of cell phones. Improper reporting of taxable income prevents KDA from fully complying with IRS reporting requirements.

Recommendations: We recommend that KDA establish a policy to address how the personal use of state vehicles will be tracked so that all KDA employees with state vehicles will be expected to report a taxable benefit. A consistent reporting method should be adopted to ensure that all employees are in compliance with IRS regulations. We also recommend that a method of reporting the taxable benefit related to other employee benefits, such as internet services and cell phones, be developed and documented for each person receiving this benefit. The reporting method should be explained to each employee so that each is aware of the issues when receiving this benefit. The amount reported as additional taxable income should be reviewed to ensure that all applicable employees are reporting for benefits consistently. We further recommend that KDA's elected Commissioner comply with the IRS and Kentucky Personnel Cabinet to track the business use of assigned vehicles so that the annual lease valuation rule can be used to determine the amount of additional income to be reported.

Finding 39: Procard procedures should be strengthened.

A state-issued credit card, called a Procard, is provided to state agency employees authorized to have one issued to them, based on their need to purchase business-related goods and services for the agency. Although the card is issued in the name of the employee, it is considered state property and should be used for agency purchases only. Cardholders are expected to comply with internal control procedures for Procard use established by their agency and with the policies and procedures of the Finance Cabinet for Procard use. While the overall conclusion of this review was that, for the period under examination, the KDA procurement process generally operated in an adequate manner, the auditors did find four areas for potential improvement.

Recommendations: We recommend that KDA either require the items entered on the Procard Certification form to be described with more specificity, or modify the process for pre-approving items to be purchased. In addition, we recommend that KDA limit the use of blanket approvals in an effort to better monitor the amounts spent at each special event. We also recommend that KDA staff always provide detailed documentation for all purchases. When the documentation provided by the vendor lacks details, staff should provide additional descriptions and provide justification for the purchase. We further recommend that KDA list and tag the items maintained in inventory for special events, such as the state fair. KDA should consider moving all the items into one location for better control. KDA should also fully implement their plans to use the "State Fair Small Inventory Check Out Form" to monitor who has possession of the items.

Finding 40: KDA lacked a written policy regarding documentation for livestock show payments and certain administrative processes.

KDA had no written policy for processing prize money and judge fees for livestock shows. KDA did not maintain application/registration forms of livestock show judges or for show participants. Additionally, KDA had no payment documentation to support fees payable to the judges for their services or for the livestock show winners.

Recommendations: We recommend KDA develop a policy that, at a minimum, requires uniform livestock application/registration forms to be completed by all judges of and participants in livestock shows. We further recommend a schedule be developed specifying judges' fees and the prize amounts paid to winning participants. If there is a need to deviate from the fee and prize money schedule, the payments should be submitted and approved by KDA prior to the show. In addition, we recommend the judge's application be reviewed prior to a show, if feasible, to ensure the judges are qualified and free of conflicts of interest. The judge's application form should include a statement stating that by signing the application the judge is free of conflicts of interest, or will disclose in writing any potential conflict prior to the event.

Finding 41: KDA did not maintain records to document the disposal of returned cell phones in compliance with Surplus Property regulations.
KDA did not have a policy or a documented method for disposing of returned cell phones. KDA staff stated that no records were maintained because the phones were obsolete. However, the Division of Surplus Property within the Finance Cabinet should have been contacted to approve the disposal of state property. According to FAP 220-19-00, the Division of Surplus Property has the authority to declare and dispose of surplus property. KDA is working to improve the management of cell phones and should determine which of the allowable methods the agency will use to dispose of cell phones to comply with this policy.
Recommendations: We recommend that KDA comply with FAP 220-19-00 and maintain documentation related to cell phones returned due to damage, termination of employment, or obsolescence, and request approval for disposing of the property through one of Finance Cabinet's prescribed methods. If donation to a charity is the desired method for disposal, KDA should request the approval of this method and ensure that the selected charity is an approved nonprofit charity according to established Finance Cabinet policies.

Report Referrals

Due to the nature of certain findings discussed within this report, we are referring issues within the report to the Kentucky Office of the Attorney General, Kentucky Executive Branch Ethics Commission, Kentucky Personnel Board, Kentucky Department of Revenue, Kentucky Department of Fish and Wildlife, Kentucky Agricultural Development Board, Internal Revenue Service, and the United States Department of the Interior Office of Inspector General.

Chapter 1

Introduction and Background

Impetus and Objectives for Examination

On January 11, 2012, the Commissioner of the Kentucky Department of Agriculture (KDA) formally requested that the Auditor of Public Accounts (APA) conduct a special examination of the KDA that would be “thorough and sweeping.” The Commissioner indicated to the press that in his first five days on the job, employees came forward with “several potentially troubling allegations” involving the administration of his predecessor. At a joint press conference later that day with the Agriculture Commissioner, the State Auditor agreed to take a broad look into the “administrative practices and fiscal management of the Department of Agriculture” under the two terms of the last KDA Commissioner (former Commissioner).

Scope of and Methodology for Examination

The scope of this examination includes records, activities, and information for the period of January 1, 2004 through December 31, 2011, with an emphasis on the last four years; however, the time periods used in the report vary due to the dates of the issues and the availability of the information.

To complete this examination, the APA reviewed documents, conducted interviews, and tested expenditures. Thousands of documents, including emails, invoices, reports, policies, timesheets, travel vouchers, and personnel files, were supplied by KDA staff, former staff, and other entities. These and other items were analyzed in relation to the objectives of this examination. The findings, or results, from this examination are discussed in detail in Chapter 2.

The APA conducted interviews with over 50 individuals, often following up on the initial interviews with phone conversations, emails, and additional meetings. The following were among the many interviewed:

- Current and former KDA staff members;
- Kentucky Proud (KY Proud) vendors;
- Finance and Administration Cabinet staff;
- Personnel Cabinet staff;
- Executive Director of the Executive Branch Ethics Commission; and the
- Former spouse of the former KDA Commissioner.

The APA attempted to interview the former Commissioner; however, the former Commissioner declined to be interviewed.

Auditors selected a judgmental sample and reviewed certain types of expenditures from the examination period to determine the presence of required documentation, reasonableness of expenditures, and compliance with KDA policies. Such information included travel vouchers, timesheets, Procurement Card (Procard) expenditures, direct payments, and checks. The findings from these reviews are also discussed, when applicable, in Chapter 2.

Agency History

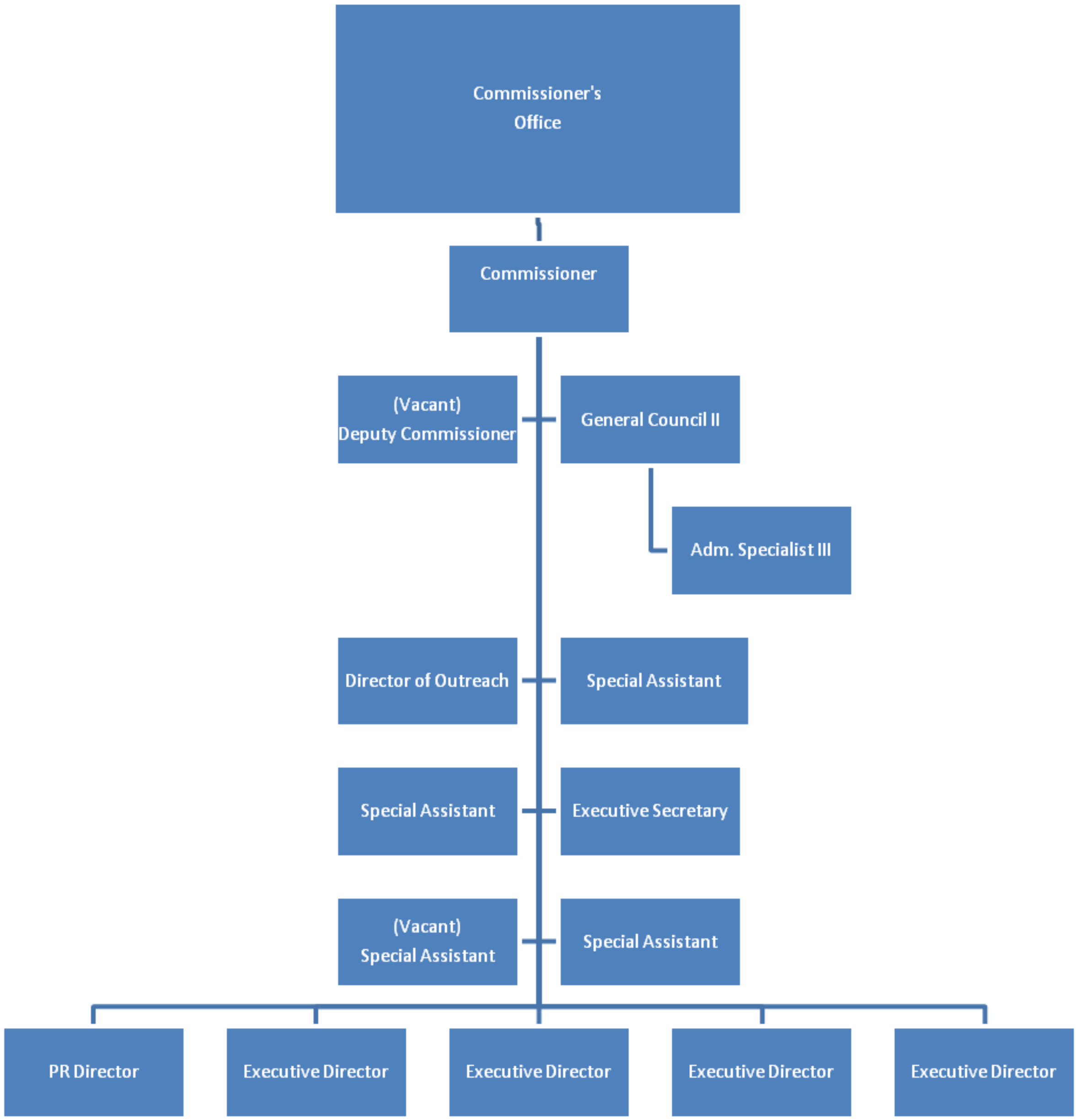
The Agriculture Commissioner is a state-level position in all 50 states. The duties of the position vary from state to state, but their general role is regulation of various facets of the agriculture industry, as well as promotion of state agribusiness. While the vast majority of the states that do have the statewide governmental position authorize the governor to appoint an individual to the office, there are at least 12 others which have opted to have citizens vote to select the office holders. These states include Alabama, Florida, Georgia, Iowa, Kentucky, Louisiana, Mississippi, North Carolina, North Dakota, South Carolina, Texas, and West Virginia.

The Fourth Constitution of Kentucky in 1891 established the Commissioner of Agriculture as a state-level position publicly elected by the people of the state through the primary/general election process to serve a four-year term. The general role of the Commissioner has remained much the same as when it was first created – to promote the interests of Kentucky agriculture and horticulture.

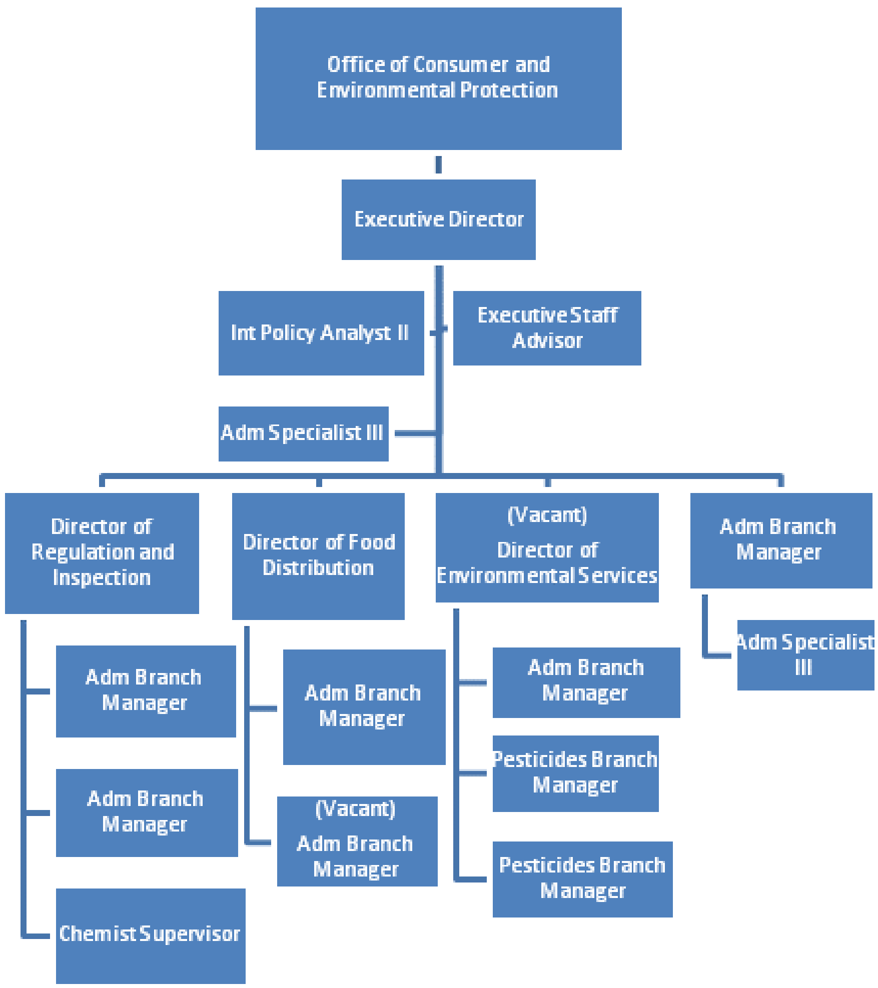
Agency Structure, Personnel, and General Responsibilities

At the end of the examination period, KDA had 302 personnel positions, 36 of which were vacant. KDA was organized into five executive offices including the Office of the Commissioner, the Office for Consumer and Environmental Protection, the Office of Agriculture Marketing and Product Promotion, the Office of the State Veterinarian, and the Office for Strategic Planning and Administration.

As depicted in the following organization chart provided by KDA, the Office of the Commissioner included the Division of Public Relations and consisted of 12 staff, including the Agriculture Commissioner.



The **Office for Consumer and Environmental Protection** consisted of three divisions: the Division of Environmental Services, the Division of Regulation and Inspection, and the Division of Food Distribution. According to the Master Position Report for KDA, as of January 1, 2012, the Office for Consumer and Environmental Protection was supported by 147 positions, including 18 positions which were vacant at that time. The following organization chart provided by KDA shows the detail of the Office for Consumer and Environmental Protection.



The *Division of Environmental Services* was organized into four branches: Agricultural and Commercial Application Branch, Structural and Commercial Application Branch, Technical Support and Product Registration Branch, and Pest and Weed Control Branch. All but the Pest and Weed Control Branch were federally funded by an EPA Performance Partnership Grant.

The Agricultural Branch is funded by the USDA Cooperative Pesticide Record Keeping Program. Field inspectors from both sides of this branch continuously review records and inspect facilities of the businesses which sell and/or apply pesticides within the state. The inspectors have the authority to impose fines on businesses and/or individuals who neglect to follow federal and state laws concerning the proper storage, containment, sale, distribution, application, record keeping, or disposal of federally registered pesticides.

The Structural and Commercial Application Branch is responsible for the licensing of pest control companies and individuals applying pesticides on or within a structure in the state. Structural pesticide inspectors investigate consumer complaints or situations involving pesticides applied by, or services provided by, licensed or unlicensed individuals.

In addition to funds from the USDA Cooperative Pesticide Recordkeeping Program, the Technical Support and Product Registration Branch is funded by "319 Grants." The purpose of a 319 Grant is to educate those who use pesticide agriculturally of the precautions they need to take to prevent pesticides from contaminating surface and ground water in order to preserve water quality. This branch also reviews the safety and effectiveness of all pesticides allowed to be sold and used in Kentucky. The employees also spend a great amount of effort to educate the public on Best Management Practices (BMP's). The Rinse and Return Program is actively collecting old pesticide containers for recycling and educating the public on proper disposal of containers on the farm. Members of the team are also called upon in the Collection and Disposal Program to perform the collection and disposal of potentially hazardous pesticides which have been abandoned by their owners or are no longer allowed to be used.

The Product Registration Program is responsible for the registration of each and every pesticide product sold and/or distributed in Kentucky. A $250 fee is assessed for each new pesticide registration (prior to sale or distribution) and the renewal of each pesticide registration. Product registrations expire December 31st of every calendar year.

The Pest and Weed Branch is mandated by Kentucky Revised Statutes to provide pest control services to combat major pests in the Commonwealth. The pests targeted by this branch include: mosquitoes, black flies, buffalo gnats, bull and musk thistles. These pests are not only a terrible nuisance to people and livestock, but also pose a serious health risk with the possibility of spreading diseases, such as the West Nile Virus.

The *Division of Regulation and Inspection* consists of four branches – Administrative Branch, Amusement Ride Safety Branch, Motor Fuel/Pesticide Laboratory Branch, and Weights and Measures Branch – but is responsible for fifteen programs.

The main responsibility of the Administrative Branch is to oversee the fleet of vehicles maintained by KDA, as the agency took over its own fleet services from the Finance and Administration Cabinet (Finance Cabinet) on January 1, 2007. While KDA employees within this branch do not perform the actual maintenance or repair of these vehicles, the employees do oversee the assignment and proper usage of the vehicles, in addition to monitoring the maintenance needs of the vehicles and scheduling service.

The Amusement Rides and Attractions Program provides for the inspection of all amusement rides and attractions to ensure the safety of the equipment. This includes, for example, amusement parks, mobile carnivals, go-cart tracks, restaurant play courts, and water parks. Each company/operator must submit an annual application and payment for a permit in order to operate their business and comply with state laws.

The Egg Marketing Program provides for the random inspection of eggs at all levels to ensure consumer safety. Under the Kentucky Egg Marketing Law, all retail businesses, distributorships, or plants must be licensed to sell shell eggs, egg products, or specialty egg products within the Commonwealth. Others included are small producers that sell more than 60 dozen per week or who distribute their eggs for resale. KDA strictly enforces quality, labeling, and refrigeration.

The Retail Gas Dispensers/Meter Inspection Program is responsible for the testing of retail motor fuel dispensers to ensure that the quantity delivered is accurate and that the total price is computed correctly. Inspectors serve both consumers and businesses by assuring equity in the marketplace.

The Grain Regulation Program is responsible for administering inspections to ensure that producer grain and contractual agreements are secured and stable. The licensed grain business's financial and accounting records are audited to ensure that the farmers of the Commonwealth are being paid for the grain commodities. Anyone who buys or stores grain from producers is required to be licensed. The licensee is required to deduct one-fourth percent (0.0025) of the value of grain purchased from producers. This assessment is paid to the Kentucky Grain Insurance Fund, which provides insurance coverage to the participating producers in the case of a failure. At present, this fund is above the required $4 million, so the one-fourth percent is not being collected.

The Agricultural Limestone Program provides analysis of agricultural grade limestone. Limestone is used as a neutralizing agent for soil acidity and is tested in the later parts of summer and winter so results are available before the spring and fall dustings. Samples are laboratory-tested for particle fineness and their Calcium Carbonate Equivalent. Any owner who conducts a business for the purpose of offering or exposing limestone for sale must be licensed with the KDA annually.

The Meter Program inspects meters to ensure accuracy of delivery of product. The types of meters inspected include liquid propane, vehicle tank, terminal, and farm milk tanks.

The Kentucky Metrology Laboratories provide calibration services and technical guidance for private industries, scale and meter repair companies, other state agencies, and weights and measures inspectors within the division. Weights, volumetric test measures and provers, and liquid propane provers are all calibrated by the metrology laboratories. These calibrations check and maintain the accuracy of the equipment used to set up, monitor, inspect, and repair all types of scales and meters throughout the Commonwealth.

The Motor Fuel Quality Testing Laboratory is responsible for the inspection and testing of gasoline, gasoline-alcohol blends, diesel, and biodiesel fuels to ensure that the quality of the product complies with Kentucky state law and the American Society for Testing and Materials standards and specifications. Kentucky's Motor Fuel Quality Law requires that each retail business that sells motor fuel be registered. Retail facility owners and operators are required to pay an annual fee of $50 for the purpose of funding the program. Inspections are conducted routinely across the state and in response to consumer complaints.

The Retail and Wholesale Package Program uses inspectors to check the net content of consumer packages based on weight and volume. These inspections are for all consumer products with a declaration of weight or volume.

The Scale Program inspects point of sale weighing devices for accuracy. These include large industrial scales that are used by industry; large vehicle scales found at weigh stations, power plants, coal mines, grain warehouses, and other similar businesses; and livestock scales used to determine market weights for livestock.

Inspectors from the Scanner Program check retail pricing devices that utilize UPC codes to ensure consumers pay posted prices.

The Service Agency and Serviceman Program registers qualified service companies and individuals to install, adjust, or recondition commercial weighing and measuring devices. All service companies/individuals must register with KDA annually.

The Teens and Tobacco Program was enacted by the General Assembly in 1996 to prevent the sale of tobacco products to anyone under the age of 18. The program inspectors annually conduct random, unannounced inspections of retail establishments where tobacco products are sold or distributed.

The Tobacco Warehouse Program is responsible for testing scales and re-checking the weights of warehouse-weighed tobacco. All persons operating a warehouse for tobacco sales must license annually. All persons weighing received tobacco must be bonded either individually or under a blanket bond.

The *Division of Food Distribution* contributes to the nutritional well-being of the citizens of Kentucky by distributing USDA commodities to eligible recipient agencies. The division is broken into three branches - Administrative Branch, Field Review Branch, and Food Assistance Branch – and administers four food programs for USDA.

The Child Nutrition Commodity Program coordinates the distribution of commodities to more than 1,600 public, private, and nonprofit schools, as well as residential child care institutions that provide meals to students. According to KDA, USDA commodities valued at over $16 million a year are distributed at 245 school systems, serving over 400,000 students daily.

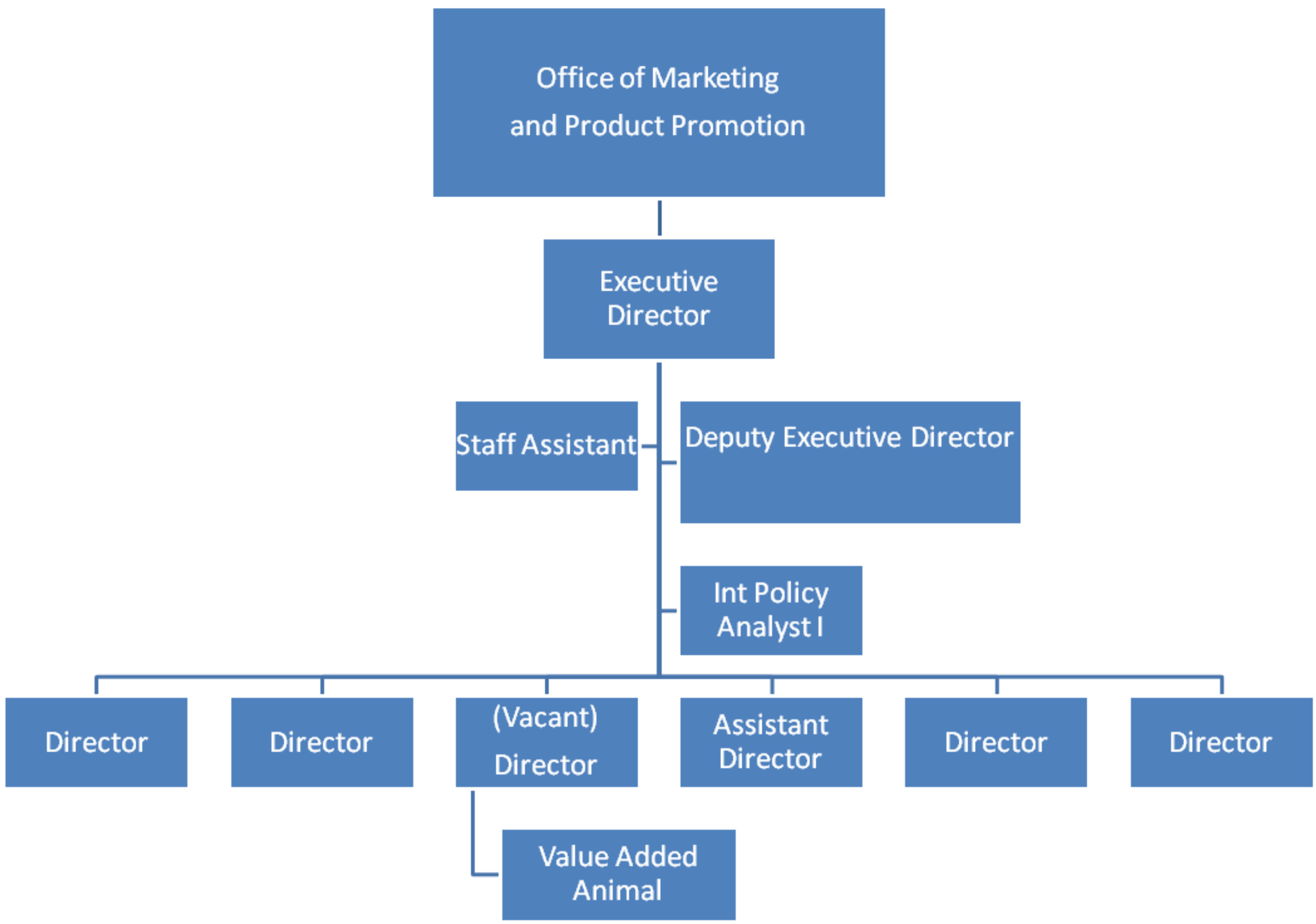
The Commodity Supplemental Food Program supplements the diet of participants by providing monthly packages of food carefully selected to provide a broad range of nutritious food for a well balanced diet, as well as nutritional education and information to enable residents to enjoy healthier lives. According to KDA, over $3.5 million of food is made available to approximately 15,000 women, infants, children, and senior citizens at 101 locations across the state.

Under the Emergency Food Assistance Program, commodity foods are made available to local agencies for distribution to needy households for use in preparing meals for home consumption or to organizations that prepare and provide meals for the needy. According to KDA, over $1.7 million worth of food is made available to five food banks, which contract with food pantries throughout the state to distribute food.

The Senior Farmers' Market Nutrition Program works to gain market access for farmers as well as improving nutrition of low income families by providing them better access to fresh fruit and vegetables. Funding for this program comes from federal and state resources. Low-income senior citizens are provided with $24 in checks to purchase fresh, unprocessed, locally grown fruits, vegetables, and herbs at state-approved farmers' markets. According to KDA, this program provides an additional $250,000 to Kentucky farmers each year.

The Division of Food Distribution also supports the Farm to School Program in an effort to bring together the freshness and high quality of the KY Proud products with schools.

The **Office of Agricultural Marketing and Product Promotion** assists farmers, agricultural businesses, and commodity groups in promoting and marketing their products by expanding existing markets, as well as developing domestic and international markets. This office consists of six divisions and has 59 positions assigned to it. As of January 1, 2012, there were five vacancies within the office. The following organization chart provided by KDA shows the breakdown of the Office of Agricultural Marketing and Product Promotion.



Chapter 1

Introduction and Background

The *Division of Agriculture Education, Farm Safety, and Farmland Preservation* is organized into two branches (the Agriculture in the Classroom Branch and the Farmland Preservation Branch) and is responsible for three programs: Agriculture Education, Farm and Home Safety, and Farmland Preservation. Agriculture Education strives to improve agriculture literacy by developing programs that increase consumer, educator, and student awareness about agriculture. Farm Safety strives to increase safety awareness and provide educational resources and training to ensure the safety of farmers and their families. Farmland Preservation allows the state to purchase agricultural conservation easements in order to ensure the lands currently in agricultural use will continue to remain available for agriculture and will not be converted to other uses.

The purpose of the *Division of Agriculture Marketing and Agribusiness Recruitment* is to promote Kentucky's agricultural products both domestically and abroad. As a team, the division works with agribusinesses throughout the Commonwealth to develop markets and trade opportunities and implement programs to assist Kentucky companies in marketing their products worldwide. The division also maintains a Statistics Branch.

The Division of Agriculture Marketing and Agribusiness Recruitment administers and promotes the KY Proud marketing program. This division's staff assists Kentucky producers in marketing Kentucky grown, processed, or manufactured agricultural products locally, nationally, and internationally.

Becoming a KY Proud member is currently free and available to business partners, such as chefs, distilleries, gift shops, restaurants, and schools, as well as the more traditionally thought of producer or grower who must grow, process, or package their product in Kentucky in order to qualify. Categories of eligible products currently include the following:

- Alternative Livestock
- Baked Goods
- Beef Cattle (live)
- Beverage & Spirits
- Bison (live)
- Certified Organic
- Christmas Trees
- Dairy Cattle (live)
- Dairy Goats (live)
- Dairy Products
- Eggs
- Fiber Goats
- Field Grown & Cut Flowers
- Fish/Seafood
- Fruits

- General Grocery
- Greenhouse
- Hay/Straw Compost & Fertilizer
- Herbs, Spices, & Mushrooms
- Honey/Bees
- Livestock Feed
- Meat Goats (live)
- Meats (frozen, packaged, or cut)
- Merchandise Crafts & Farm Items (crafts must be agriculture related)
- Nursery
- Nuts
- Poultry (live)
- Rabbit (live)
- Sauces
- Seeds, Edible
- Sheep (live)
- Snack & Confection
- Swine (live)
- Vegetables
- Vineyard
- Winery

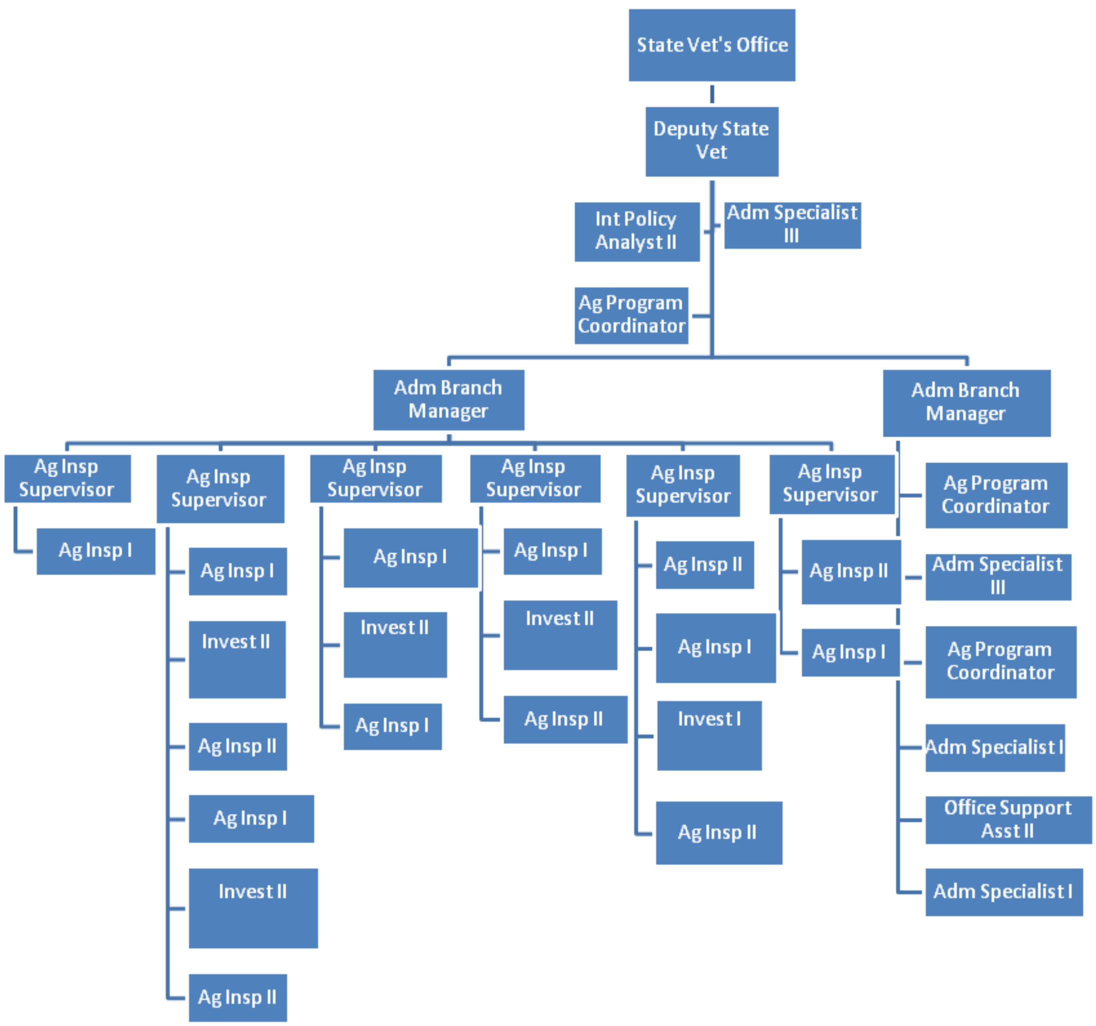
Division of Value-Added Animal and Aqua Production is organized into six branches – Administrative Branch, Aquaculture Development Branch, Dairy Market Development Branch, Direct Marketing Branch, Livestock Market Development Branch, and Market News Branch. The division is responsible for developing new market opportunities, expanding and enhancing existing markets, and gathering market intelligence for all species of livestock and aquaculture enterprises. Staff works with individuals and companies through the entire range of opportunities, from farm production through the process of value added products sold at retail. Market information is disseminated weekly through the division's Market News Branch in cooperation with local media outlets.

Division of Value-Added Plant Production, which consists of the Hay Branch and the Produce Market Development Branch, serves Kentucky farmers looking to enhance or develop markets for a variety of horticultural crops. The division's marketing specialists serve farmers' markets, fruit and vegetable growers, ornamental agriculture producers, and certified organic farmers.

The *Division of Agritourism* administers the Kentucky Farms are Fun program. Agritourism has been defined by Kentucky's General Assembly as the act of visiting a working farm or any agricultural, horticultural, or agribusiness operation for the purpose of enjoyment, education, or active involvement in the activities of the farm or operation.

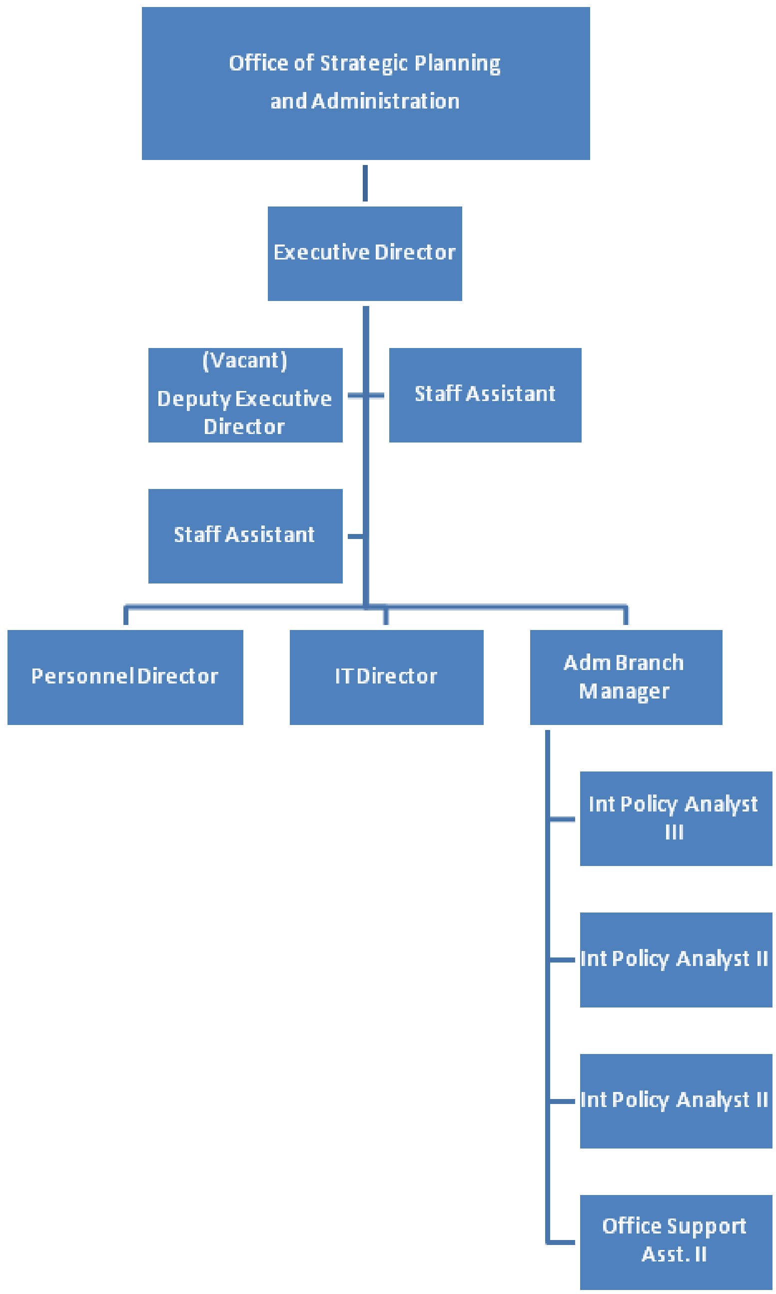
Division of Show and Fair Promotion consists of the Administrative Branch, Agricultural Exhibition Branch, and County Fair Branch. The Division of Show and Fair Promotion promotes Kentucky's livestock industry by sponsoring over 100 district, state, and national livestock shows and sales for youth and adult exhibitors. The division administers the Aid to Local Agricultural Fair Programs, which monitors 105 local county fairs in promoting and advancing Kentucky agriculture.

The **Office of State Veterinarian** is organized into two divisions. The *Division of Animal Health* consists of the Investigator Branch and the Records Branch and the *Division of Producer Services* consists of the Equine Branch, Financial Branch, and Inspection Staff Branch. With the service of 54 positions, the divisions monitor eight animals, which include honeybees, bovine, camelids (alpacas, camels, llamas, etc.), cervids (deer, elk, reindeer, moose, etc.), equine, poultry, sheep and goats, and swine. As of January 1, 2012, seven of those 54 positions were vacant. The following organization chart provided by KDA shows the breakdown of the Office of State Veterinarian.



Chapter 1
Introduction and Background

The **Office for Strategic Planning and Administration** consists of two divisions – the Division of Information Technology and the Division of Personnel and Budget – both of which serve the needs of KDA employees. According to the Master Position Report for KDA, as of January 1, 2012, the Office for Strategic Planning and Administration was supported by 30 positions, including six positions which were vacant at that time. The following organization chart provided by KDA shows the breakdown at the office level.



The *Division of Information Technology* strives to provide technology systems and infrastructure that enables KDA employees to perform their duties in the most effective and efficient manner possible.

The *Division of Personnel and Budget* consists of four branches (Administrative Branch, Employee Relations Branch, Payroll and Benefits Branch, and Personnel Branch). The fiscal and budget area deals with budget preparation and administration, handles legislative tracking duties, and is responsible for interacting with government agencies. The division is also responsible for all purchasing, accounting, and inventory.

Agency Responsibilities During Special Events

In addition to the many areas of responsibility outlined in the previous section, KDA routinely plans and/or participates in many conferences, shows, and special events held annually in Kentucky. Such activities include the Kentucky State Fair, the Incredible Food Show, Kentucky Crafted: The Market, the North American International Livestock Exposition, and the Kentucky High School Athletic Association Sweet Sixteen State Basketball Tournaments.

During the period audited, KDA also provided a tremendous amount of staff time and other resources to the 2010 Alltech FEI World Equestrian Games (WEG) and the 2008 Annual Meeting of the Southern Association of State Departments of Agriculture (SASDA), both of which were hosted by Kentucky in the years noted.

Affiliated Entities

As established in KRS 246.120, the ***State Board of Agriculture*** consists of fourteen members, including the Commissioner of Agriculture who serves as chairman. Nine members of the board are appointed by the Governor. The remaining four members are the Director of the Agricultural Experiment Station, the State President of the Future Farmers of America, the State President of the Young Farmers of America, and the State President of the 4-H Club. The State Board of Agriculture is statutorily required to act as an advisory board to the elected Commissioner.

Animal Control Advisory Board, per KRS 258.117, was created for the purposes of evaluating applications for and reviewing disbursements from the Animal Control and Care Fund, creating training programs, and other duties relating to animal control and care in the counties of the Commonwealth. The advisory board is attached to KDA for administrative purposes and meets quarterly, or upon the call of the chair.

The ***Egg Marketing Board***, as established in KRS 260.570, is in KDA and acts in an advisory capacity to the Commissioner in all matters pertaining to the administration of the Kentucky Egg Marketing Law. The board is composed of the Commissioner, chairman ex officio, and six (6) members appointed by the Governor from lists of names submitted by egg producing and marketing organizations within the Commonwealth approved by the Commissioner for the purpose of submitting such lists. The board meets at least once per year and other times as the Commissioner, acting chairman, or a quorum of the board may deem necessary.

As put forth in KRS 251.600-620, the ***Kentucky Grain Insurance Corporation*** administers the Kentucky Grain Insurance Fund, a fund which promotes the state's welfare by improving the economic stability of agriculture through the establishment of the Kentucky grain indemnity trust fund in order to protect grain producers in the event of the financial failure of a grain dealer or grain warehouseman. This corporation ensures the existence of an adequate fund so that grain producers and claimants may be compensated for losses occasioned by the failure of a grain dealer or grain warehouseman. The Commissioner serves as president of the corporation.

The ***Kentucky Grape and Wine Council***, created within KDA, was established by KRS 260.165. The purpose of the council is to promote and facilitate the development of a Kentucky-based grape industry. The council is composed of the Commissioner of Agriculture and nine members appointed by the Governor. The council is required to meet at least once every three months.

The ***Office of Agritourism*** is an interagency created by KDA and the Tourism, Arts, and Heritage Cabinet, as established in KRS 247.800. The ***Agritourism Advisory Council*** is established within KDA to advise and assist the Office of Agritourism with its mission to promote agritourism in Kentucky to potential visitors, both national and international, and to assist in sustaining the viability and growth of the agritourism industry in Kentucky.

Governor's Office of Agriculture Policy (GOAP) is the Governor's direct link to the Commonwealth's agricultural industry. The Kentucky Agricultural Development Board, the Kentucky Agricultural Finance Corporation, the Kentucky Tobacco Settlement Trust Corporation, the Governor's Commission on Family Farms, and the Kentucky Agricultural Resource Development Authority are all staffed by GOAP employees.

The ***Kentucky Agricultural Development Board (ADB),*** authorized in KRS 248.707, distributes funds received by the Commonwealth from the Tobacco Master Settlement Agreement (Phase I money). ADB invests in innovative proposals that increase net farm income and assists tobacco farmers and tobacco-impacted communities by stimulating markets, finding new ways to add value to existing products, and promoting diversification of Kentucky's agricultural economy.

The Agricultural Development Board has 16 members, as established in KRS 248.707(2). They are the Governor, Commissioner of Agriculture, Secretary of the Cabinet for Economic Development, Director of the University of Kentucky Cooperative Extension Service and President of Kentucky State University, along with eleven members appointed by the Governor to staggered terms. Those appointees include representatives of the Kentucky Farm Bureau, the Kentucky Chamber of Commerce, an attorney, an agricultural lender, and seven active farmers.

The young woman crowned Miss Kentucky through the ***Miss Kentucky Scholarship Organization*** serves as spokesperson for KDA's Teen and Tobacco program. Miss Kentucky travels all over the Commonwealth speaking to students about the laws and penalties pertaining to tobacco use and possession by minors.

Agency Budget

While an economic downturn has caused General Funds to become a smaller portion of the overall funding allocation for KDA, allocations from Federal Funds and Restricted Funds were at an eight-year high during Fiscal Year (FY) 2012. As the table below demonstrates, KDA's budget now consists of nearly as much in Restricted Funds as it does in General Funds.

Table 1: KDA Budget: Source of Funds

Fiscal Year	General Fund	Restricted Fund	Federal Funds	Total Funds
FY 2005	$19,010,000	$9,201,300	$4,813,300	**$33,024,600**
FY 2006	19,579,900	9,150,500	4,092,100	**32,822,500**
FY 2007	20,203,100	7,098,600	3,947,400	**31,249,100**
FY 2008	22,183,400	10,280,600	5,089,200	**37,553,200**
FY 2009	20,258,700	7,255,400	4,765,800	**32,279,900**
FY 2010	17,986,200	12,148,100	5,536,000	**35,670,300**
FY 2011	17,095,800	12,635,500	5,006,400	**34,737,700**
FY 2012	17,018,800	15,288,200	5,853,400	**38,160,400**

Source: Auditor of Public Accounts based on the Enacted Budgets of the Commonwealth for 2005-06, 2007-08, 2009-10, 2011-12.

As the following table shows, while 70 to 80 percent of each year's budget goes to cover personnel and operating costs, KDA spent $4 to $7 million each year since FY 2005 on grants, loans, or other benefits. Often the funds to support these grants have been allocated to KDA as Restricted Funds. One such example is the Agricultural Development Board grant which provides funds to KDA for market initiatives which promote the KY Proud Program. KDA is allowed to use these funds to make sub-grants to retailers, producers, restaurants, and others directly supporting the KY Proud Program. Any Kentucky farm which produces agricultural products for sale to the public and any business, including restaurants, retailers, and manufacturers, who buy agricultural products that can be traced to a Kentucky farm are eligible for a KY Proud grant.

Table 2: KDA Budget: Expenditures by Class

Fiscal Year	Personnel Cost	Operating Expenses	Grants, Loans, or Benefits	Capital Outlay	Construction	Total Expenditures
FY 2005	$18,997,700	$5,219,100	$4,902,300	$400,000	$0	**$29,519,100**
FY 2006	16,572,800	4,460,700	6,730,900	96,300	400,000	**28,260,700**
FY 2007	17,483,400	4,325,300	7,197,700	81,300	0	**29,087,700**
FY 2008	19,229,800	6,724,500	5,950,100	2,580,100	0	**34,484,500**
FY 2009	18,106,400	6,182,500	5,154,400	1,932,200	0	**31,375,500**
FY 2010	16,096,800	6,644,900	5,630,600	775,000	0	**29,147,300**
FY 2011	16,128,100	9,788,700	4,660,400	1,298,200	0	**31,875,400**
FY 2012	$15,983,300	$8,312,400	$4,857,400	$1,029,000	$0	**$30,182,100**

Source: Auditor of Public Accounts based on the Enacted Budgets of the Commonwealth for 2005-06, 2007-08, 2009-10, 2011-12

Chapter 2

Findings and Recommendations

2008 Southern Association of State Departments of Agriculture Annual Conference.

The Southern Association of State Departments of Agriculture (SASDA) is an organization comprised of the commissioners and secretaries of the departments of agriculture for 17 states. Member states include: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, Virginia, Virgin Islands, and West Virginia. It is loosely associated with the National Association of State Departments of Agriculture, but is a separate organization.

SASDA does not retain any staff for its operation; rather it is expected that the presiding president and treasurer will provide administrative assistance to carry out the activities of the organization. The primary activity of the organization is the annual conference of the member commissioners and secretaries. The organization meets annually in the home state of the presiding president to discuss agricultural issues relevant to the southern region states. As the host state, the employees within the president's department act as the staff for SASDA in planning and organizing all activities and retaining the appropriate accounting of all revenue and expenditures for the conference.

In 2008, the former Commissioner was the President of SASDA, making Kentucky the host state for the conference. Leadership for organizing the 2008 conference was assigned to an Administrative Branch Manager within KDA. The Administrative Branch Manager met with the executive staff, including the former Commissioner, to plan the location of the meeting, solicitation of sponsors, schedule of activities, gifts, and other details necessary for such an event.

Initial seed funding for the conference was sent by the presiding SASDA Treasurer, from the general SASDA account. In 2008, the Treasurer was the Commissioner of Agriculture from Georgia. Typically, this seed funding amount is $3,000, but a year prior to the 2008 conference, KDA sent $5,000 to Georgia to be used towards the 2008 SASDA conference. The resulting total seed funding sent to KDA was $8,000. This seed money was used to establish a bank account for the conference and provide funding for initial expenditures until other sources of revenue were received. The initial $3,000 seed funding must be repaid to the SASDA treasury account after the conference is over, to be passed on to the next host state.

The KDA Administrative Branch Manager created a checking account at a local credit union, specifically for the 2008 SASDA conference, and was responsible for managing all expenditures and revenues for the account. According to the accounting records, revenues and expenditures for the 2008 conference were each $208,851, once the checking account was closed out.

Sponsorships and attendee registrations made up the majority of the revenues for the conference, totaling $194,650. Sponsorships for the conference totaled $164,450, comprised primarily of donations from agriculture-related vendors and associations. Records indicate that at least seven of the sponsoring vendors are regulated by KDA, but since KDA did not retain any documentation showing whether or how these vendors were solicited for the sponsorship, it is not possible to determine if there was any conflict of interest. Registrations accounted for $30,200 of the 2008 conference revenues, with the 53 registrations paid for by KDA accounting for approximately half of that amount collected due to many of the attendees receiving registrations as part of a sponsorship. Remaining revenues were generated through the seed funding sent from the main SASDA account, account interest from the 2008 conference, and returns of items purchased and not needed.

The majority of the expenditures for the 2008 annual meeting went toward hotel expenses, trips, entertainment, gifts, and food. Hotel expenses were the greatest single expense, costing $67,730 for room rentals of attendees, conference space, and dinners. Gifts for commissioners, spouses, and other attendees accounted for approximately $61,085 in expenses. Expenses for activities and taking attendees on trips to various locations around the state cost approximately $46,597. Costs for entertainment, additional food, and supplies were a cumulative $15,264. Remaining expenses were due to various administrative and organizational costs.

In addition to the expenses recorded through the 2008 SASDA annual meeting checking account, KDA incurred other costs in hosting the event. As seen in Finding 2, KDA incurred over $13,000 in direct expenditures for hotel rooms of employees working and attending the meeting, van rentals, and printing services. Due to the significant number of KDA employees used as staff for the 2008 annual meeting, KDA incurred an estimated $52,310 in costs, as seen in Finding 5. Finding 1 further accumulates over $30,000 expended by KDA either through direct payments to SASDA or through a grant to an agriculture association.

The following table summarizes the total estimated cost to KDA of the 2008 SASDA annual meeting based on all expenditures identified during the examination.

Table 3: Summary of Total Estimated KDA Expenditures for 2008 SASDA Annual Meeting

Expense Type	Cost to KDA
Grant to Georgia	$5,000
Grant to Commodity Group	10,000
KDA Employee Registration	15,635
KDA Employee Hotel Rooms	11,647
Van Rental	841
Printing Pocket Schedule Cards	200
Printing Banner Signs	588
KDA Employee Staff	52,310
Total	**$96,221**

Source: Auditor of Public Accounts based on SASDA account documentation, state accounting system data, and employee salary information.

While SASDA is not associated with KDA or Kentucky state government, the 2008 annual meeting was organized and operated completely by KDA employees during work hours. In addition, the former Commissioner would never have had the opportunity to be a part of SASDA and serve as its President had it not been for his official position. The annual meeting resulted in an estimated cost to the state of $96,221, yet it is unclear what overall benefit Kentucky received from these expenses. In addition, by providing this level of participation in the SASDA event, a potential for abuse was present as discussed in Findings 3 and 4. The following findings discuss the costs incurred by KDA as a result of the SASDA annual meeting, and the activities that appear to have resulted in personal gain by the former Commissioner. See Findings 1 through 6 for SASDA related findings.

Finding 1: KDA expended approximately $30,000 of state funds to offset the cost of the 2008 SASDA conference.

KDA expended approximately $30,000 of KDA's General Fund money to offset the costs of the 2008 SASDA conference hosted by KDA when the former Commissioner was the SASDA President. Approximately 50 percent of the funding provided by KDA in support of the conference was made through two grants it awarded to two organizations. KDA made the grants with the understanding that a portion of the funds would subsequently be used to offset conference costs. In addition, KDA paid a "registration fee" for dozens of KDA employees, the majority of whom did not attend conference sessions but rather worked the conference performing various tasks, including driving conference attendees around town, providing childcare, and distributing gifts to attendees' hotel rooms. KDA not only funded approximately $30,000 of the 2008 SASDA conference costs with public funds, but did so in a questionable and non-transparent manner.

The first grant KDA awarded to offset SASDA conference expenses was completed almost a year in advance of the 2008 SASDA conference. On June 26, 2007, KDA expended $5,000 payable to the SASDA organization. The supporting payment document for this expense in the state's accounting system states, in part, "[t]his grant will be used to cover the expenses of SASDA in conducting its 2008 annual meeting." The $5,000 payment was then paid back to KDA through an October 11, 2007 check from the SASDA Treasurer, in addition to $3,000 seed money routinely provided by the organization to the state hosting the annual SASDA conference.

According to the former KDA Executive Director of the Office of Strategic Planning (OSPA), "the idea was to make the grant to SASDA, the organization as a whole, not just Kentucky's conference, although in the final analysis, that was, in effect, what it became." The former KDA Executive Director of OSPA was uncertain of the reason why the funds were paid to the SASDA organization rather than KDA using the funds to directly pay for the expenses of the conference; however, he suggested it may have been to prevent funds available to the agency in FY 2007 from lapsing and, in essence, losing the ability to use those funds. By granting the funds, KDA committed the funds to the SASDA organization and KDA subsequently used the conference account, established in October 2008, to receive and expend SASDA funds.

In October 2008, after receiving a check totaling $8,000 from the SASDA organization, KDA personnel opened an account at a local credit union and made the first deposit into the account that was used to pay the costs for the 2008 SASDA conference. Around March 2009, approximately nine months following the conference, KDA repaid the $3,000 seed money to the SASDA organization as is typical for host states.

On June 17, 2008, KDA made a $15,000 grant to a local agricultural commodity group for the stated purpose of providing a promotion grant to "enhance the marketing opportunities" for the group's industry. According to a KDA Administrative Branch Manager who assists the commodity group with its grant funds, the grant was given to the commodity group with a stipulation that the commodity group use $10,000 of the $15,000 grant for the expenses of the 2008 SASDA conference.

While this stipulation was not written into the formal contract between KDA and the commodity group, auditors obtained an email between the KDA Administrative Branch Manager and non-merit KDA personnel indicating that the stipulation was in place and that the Administrative Branch Manager was still waiting at that time for KDA to disburse the grant funds to the commodity group. It was stated in the email that "we have not received the $15,000 grant check to cover the $5,000 for my programs and the $10,000 for SASDA." Others receiving the email included a former Executive Secretary in the Commissioner's office and a former KDA Deputy Commissioner.

According to the KDA Administrative Branch Manager, it was originally suggested that KDA award grants in the amount of $40,000 each to multiple commodity groups with the stipulation that a portion of those funds be used by the recipients to offset 2008 SASDA conference expenses. The Administrative Branch Manager believed the original suggestion was made by the former Commissioner and that the suggestion was not supported internally by other KDA personnel. It was later decided by KDA to award a $15,000 grant to one commodity group rather than $40,000 grants to several commodity groups. The Administrative Branch Manager stated the commodity group who received the grant was selected by KDA because of the Branch Manager's affiliation with that group and her role as the organizer of the 2008 SASDA conference.

Grant records maintained by the KDA Administrative Branch Manager indicate that the commodity group incurred expenses of $8,528 on behalf of the 2008 SASDA conference. The expenditures incurred by the commodity group included over $7,900 for souvenirs and promotional items, some of which were imprinted with the KY Proud logo, to be distributed to various conference attendees.

In addition to an amount used for 2008 SASDA conference expenses, approximately $500 of the grant to the commodity group was used to purchase a desk, desk return, lamp, and bookcase for KDA. According to the KDA Administrative Branch Manager, KDA was undergoing a reorganization and she was asked by the former Executive Director of the Office of Agricultural Marketing and Product Promotion to cover the expense with KDA grant funds because KDA did not have money in the budget to purchase furniture. The KDA Administrative Branch Manager stated that the furniture is still in the possession of KDA.

For both grants, KDA cites KRS 246.070 as its authority to expend such funds, stating specifically, "KRS 246.070 authorizes the Commissioner of the Kentucky Department of Agriculture to promote and encourage agricultural organizations and associations, and to expend funds to encourage the agricultural industry of the state." However, because the grants were initiated with a stipulation that all or a portion of these funds were to be used for the purpose of expenditures related to the 2008 SASDA conference, auditor's question KDA's intent in granting the funds and whether the funds expended actually served to encourage the agricultural industry of the state.

In addition to the $5,000 grant given to the SASDA organization a year in advance of the conference and the $15,000 grant given to the commodity group with the stipulation that a portion of the funding be used to help cover conference expenses, auditors found KDA paid registration fees for KDA employees who were either scheduled to work the conference or in one instance an employee was not aware he was to attend the conference.

On May 22, 2008, KDA paid registration fees for 53 of its employees to "attend" the conference at a cost of $295 per employee, for a total cost of $15,635. While reviewing various documents related to the 2008 conference and during interviews with current and former KDA personnel, auditors found many employees were registered for the conference who did not attend conference sessions. However, an April 28, 2008 request from KDA to the Finance Cabinet to approve the registration expense suggested that the employees would attend the conference. Rather, many of these employees were scheduled to work the conference.

Through interviews with current and former KDA employees registered to attend the 2008 SASDA conference, auditors were informed of several instances where employees were present at the conference only to work the conference. A former Executive Secretary in the Commissioner's Office stated that she did not attend the conference sessions because she was assigned to accompany the spouses of the visiting agriculture commissioners. A current KDA employee stated that she and two other KDA staff under the merit system were assigned to handle the children's program during the conference and did not attend the conference sessions.

One KDA employee, which documentation indicates was registered to attend the 2008 SASDA conference, stated in an interview he would have had no reason to be registered for the conference because he did not attend and was not involved in the conference. The employee could not recall being notified of the registration. It is reasonable to expect that if employees are to attend a conference they would be notified to ensure their attendance. Several of those interviewed, who were registered for the conference, were unaware that a registration fee was paid by KDA for them to attend the conference.

Based on interviews with KDA staff and the review of documentation, it appears KDA attempted to conceal or disguise much of its financial support used to offset the 2008 SASDA conference costs. Auditors requested to interview the former Commissioner to discuss these, as well as other issues documented throughout this report, but the request was declined.

Recommendations

We recommend KDA refrain from using grant funds to subsidize its conferences or general administrative expenses. Grant funds awarded by KDA should be awarded without stipulations, and used strictly in compliance with the written grant terms.

We recommend KDA pay the registration fees to conferences only for a reasonable number of employees, who will actually be attending conference sessions, and ensure that registrants are clearly notified of their registration and the expectation to attend. Further, KDA should ensure a reasonable number of employees are authorized to work a conference when hosting an event.

Finding 2: KDA incurred direct expenditures for 2008 SASDA conference.

KDA incurred over $13,000 in direct expenditures for the 2008 SASDA conference, in addition to the state funds paid to other organizations to offset conference costs and the cost of employees' wages and overtime as discussed in Finding 1. These expenditures, paid from the KDA General Fund, include costs for KDA employee hotel rooms, van rentals to transport conference attendees during the week of the conference, pocket schedule cards for attendees, and two banner signs to be displayed during the conference.

KDA paid $11,647 for 23 hotel rooms to provide overnight accommodations for more than 25 KDA employees at the 2008 SASDA conference. Many of the 25 KDA employees who were staying at the conference were not there to attend the conference but to provide labor in assisting with the coordination of the conference and its special events. See related Finding 5.

KDA's rental of four 12-passanger vans from the Finance Cabinet's State Motor Pool, used to escort SASDA conference attendees, guests, and children to various locations, cost KDA $841. Van schedules created and maintained by the KDA employee responsible for coordinating the event document the vans were to be used to transport guests to and from a local airport, the hotel where the conference was held, and various destinations across central Kentucky that included a car manufacturing plant, parks, a vineyard, a local mall, and a horse farm.

The remainder of the direct expenditures incurred by KDA on behalf of the conference was for printing services, $139 for pocket schedule cards for attendees and $588 for two banner signs to be used at the conference. According to documentation maintained by KDA personnel, it was thought that one of the two banners could be used again for subsequent KDA related events; therefore, KDA may receive some future benefit from the cost of one banner. It appears that expenses incurred directly by KDA for the conference should not have been paid with General Fund money but rather by SASDA funds.

Recommendations

We recommend KDA scrutinize the use of the agency's General Fund and other public funds to pay the expenses for conferences it may host to ensure that the expenditure of public funds are for public purposes only, and that the expenditure provides a direct benefit to KDA or its programs. We further recommend that any non-public source of funds dedicated to host a conference be used to pay the expenses of the conference.

Finding 3: KDA purchased an excessive number of gifts in association with the 2008 SASDA conference and failed to formally track the final distribution of the excess purchases.

In association with the 2008 SASDA conference, KDA purchased an excessive number of items reportedly intended as gifts for visiting state commissioners, spouses, guests, and KDA employees. Through documentation provided by KDA and interviews with current and former KDA personnel and others, it is our understanding that the excess orders were made at the direction of the former Commissioner with the majority of the excess items reportedly taken to the former Commissioner's home after the conference. KDA did not formally track the final distribution of any of the excess items purchased or of those items donated.

Excess gift purchases made by KDA in association with the 2008 SASDA conference included 25 rifles, 25 rifle cases, 52 knives, 50 personalized cigar boxes, 30 shopping mall gift cards, and 175 watches. While the rifles, knives, and cigar boxes had to be ordered in advance so that the items could be personalized and received in time for the conference, these items were intended only for the agriculture commissioners attending the conference; therefore, the number of these items ordered far exceeded the 17 participating states in the SASDA organization and the 13 commissioners, including the former Kentucky Commissioner, who attended the conference. Further, the number of intended recipients to receive the shopping gift cards and watches could be predetermined yet the items ordered were well in excess of the number necessary to provide as gifts.

In addition to excess gifts purchased by KDA, donations were provided to KDA by sponsors; however, through records and interviews auditors found KDA received an excess number of commemorative Makers Mark bourbon bottles and only gifted out 12 of the commemorative bottles to visiting state agriculture commissioners.

Rifles and cases

The first gift item ordered for the agriculture commissioners attending the 2008 SASDA conference were 25 Remington rifles with scopes:

- 17 - 300 caliber rifles;
- 3 - 270 caliber rifles;
- 2 - 308 caliber rifles; and
- 3 - 243 caliber rifles.

Documentation of this purchase shows that KDA expended $11,225 of SASDA funds for these 25 rifles, each costing $449. KDA later purchased with SASDA funds 25 rifle cases for these 25 Remington rifles, costing in total an additional $2,123.75. After factoring in an additional $250 in labor and travel costs for the vendor to be present at the 2008 SASDA conference to meet with each visiting commissioner and to properly register the rifles, KDA expended $13,598.75 of SASDA funds for the purchase of the 25 rifles.

According to a January 23, 2008 email, the Administrative Branch Manager responsible for organizing the conference informed the vendor that the former Commissioner "would like to commission a special rifle as a gift to his 18 counterparts in the southeast to be presented at an annual conference that is to be held on June 9-13, 2008." Again, there are only 17 participating states in the SASDA organization as a whole, including Kentucky; therefore, KDA would only need to commission the purchase of a maximum of 16 special rifles as a gift to each of the SASDA state agriculture commissioners.

According to documentation of the initial Remington rifle order placed on March 6, 2008, the former Commissioner made the decision regarding the details of the order and clearly requested one specific rifle be personalized with his uniform number when he was a college basketball player. The email between the vendor and KDA personnel, which included the former Commissioner, states that the former Commissioner has made his decisions on the gun order for SASDA 2008.

- Black synthetic stock
- Stainless barrel
- All right hand guns
- Ky Proud stamp on receiver (looked great from what you sent us)
- Be sure to have Mayfield, KY stamped somewhere
- All guns with standard scope
- Need not later than June 6, 2008
- Start numbering system with #1 (if possible)
- HOWEVER, need one (1) of the 300's to have #32 on it (Commissioner's UK number)
- Can we have a cost estimate fairly soon?

During interviews with former and current KDA employees, no reasonable or legitimate explanation as to the need for KDA to order 25 Remington rifles for the purpose of the SASDA conference could be provided. In fact, it was noted that only 12 of the other state agriculture commissioners attended the conference and commissioners who were not in attendance would not receive a rifle. Through a review of vendor documentation and interviews conducted, it was determined that each of the 12 visiting state agriculture commissioners received a single rifle as a gift from the host state, leaving an excess of 13 Remington rifles. The final distribution of those 13 rifles is discussed in Finding 4.

Knives

Another gift item purchased in excess of the number needed was 52 Case knives, also intended to be gifted to visiting agriculture commissioners. According to the Administrative Branch Manager in charge of the SASDA account, and documentation of this expenditure, 17 of the 52 Case knives were embossed with "SASDA" on the knives. The remaining 35 Case knives ordered had "Compliments of Richie Farmer" embossed on the knives. For this gift item, KDA expended $4,678 from the SASDA account.

A KDA Administrative Specialist, who was tasked in assisting with certain gift purchases for the 2008 conference, stated that she was responsible for ordering the knives and recalled bringing two knife samples to the former Commissioner for his approval. The Administrative Specialist stated that the former Commissioner directed employees as to the number of items to order and that she did not question his directive.

A former and current KDA employee both stated that excess knives were taken to the home of the former Commissioner. The former spouse of the former Commissioner also acknowledged that knives, as well as other excess gift items from the 2008 SASDA conference, were kept by the former Commissioner. The Administrative Branch Manager who coordinated the event stated that she had kept a sample of each of the smaller giveaway items and that she did have one of the extra knives in her possession.

Cigar boxes

SASDA records also indicate that KDA purchased 50 personalized cigar boxes, each containing two cigars, for gifts to visiting agriculture commissioners attending the conference. According to one KDA employee, after the conference ended she and a former KDA employee removed cigars from the excess cigar boxes and placed them into bags, along with damp clothes in attempt to keep the cigars from deteriorating. Both employees recalled that these excess items were sent home with the former Commissioner. The former spouse of the former Commissioner stated that the Commissioner had kept several cigars and cigar boxes after the SASDA conference and subsequently gifted some of those items to others, although she did not recall who may have received the items.

Shopping gift cards

In addition, KDA purchased 30 shopping mall gift cards of $50 each to give to the spouses and guests of visiting commissioners. It was estimated that there were only 15 individuals who received these cards. The cards were purchased by KDA on June 5, 2008, just a few days before the start of the SASDA conference. At that point in the planning process, KDA should have been aware of the number of guests accompanying the visiting commissioners and only needed to order the 15 they planned to give as gifts. According to the Administrative Branch Manager responsible for coordinating the conference, the remaining gift cards went home with the former Commissioner.

Watches

Two months after the conference ended on June 13, 2008, KDA purchased through a local vendor 175 watches costing approximately $66 each for a total cost of almost $11,470. The watches were purchased from the SASDA account maintained by KDA and were reportedly intended as gifts of appreciation to the KDA employees who worked at the 2008 SASDA conference. Based on documentation and statements made by individuals interviewed, it is clear that there were not 175 KDA employees who assisted in the preparation or the actual conference event. According to the KDA Administrative Branch Manager who organized the event, only approximately 40 watches were distributed to KDA personnel at a late summer picnic following the conference. The Administrative Branch Manager did not place the order for the watches and was not aware of the number of watches purchased until she received the vendor invoice. It is unknown how many additional watches remain and no one we interviewed could provide information regarding the ultimate distribution of those items.

Although these excessive gift items were purchased from the SASDA account maintained by a KDA staff person, auditors identified approximately $20,000 of public funds that KDA paid directly to the SASDA account from which these purchases were made. See Finding 1.

By KDA depositing state funds into the credit union account from which SASDA gifts for attendees were purchased, KDA comingled state funds with private donations made for the SASDA conference by other individuals and entities. Because the funds were comingled, this calls into question the appropriateness of the KDA spending money for these gifting purposes.

Bourbon bottles

In addition to the excess expenditures on gift items listed above, KDA received an excess of donated items for the SASDA conference. During interviews, one particular donation that was brought to the auditor's attention was that the former Commissioner and his former spouse took home from the conference several bottles of Makers Mark bourbon. The former spouse of the former Commissioner stated that they had received three cases of these bottles, with each bottle coated with white wax and including a reference to the SASDA conference and the former Commissioner's name. The bottles were reportedly kept in the unfinished portion of the basement of the former Commissioner's private residence. In addition to these statements, KDA staff indicated that other KDA personnel may have also obtained a bottle of the bourbon after the conference ended.

This donation included 50 bottles of bourbon, 17 of which were personalized with the name of each commissioner on the label and 33 of which included the KY Proud logo and the former Commissioner's name and title as the Kentucky Commissioner of Agriculture on the label. According to a KDA staff member who assisted with arranging the gift purchases and donations, the former Commissioner personally worked with that particular vendor to arrange the initial donation. Documentation was not found that provided the details of that discussion and, therefore, it could not be determined whether the former Commissioner requested 50 bottles or if the vendor offered that number of bottles of bourbon.

Further, the gift listing maintained by the 2008 SASDA conference coordinator only listed the 17 Makers Mark bourbon bottles intended to be given as gifts to the commissioners, but no mention of the intent to distribute the remaining 33 bottles to conference attendees as giveaways or door prizes.

KDA did not adequately track the purchases it made for the conference, nor items donated, which has allowed items to go unaccounted for, or in some instances, to be used, reportedly, for personal use by the former Commissioner, and possibly others. Further, the former Commissioner, solely because of his position as an elected Constitutional officer as Commissioner of Agriculture, had the opportunity to serve as the President of SASDA, and he held the responsibility as the SASDA President and as an elected Constitutional officer to use SASDA conference funds in a manner beneficial to SASDA, and it did not entitle him to use items purchased with these funds for his own personal benefit.

Recommendations

We recommend KDA more closely scrutinize its purchasing orders to ensure that the orders are reflective of actual needs. The agency should refrain from purchasing items in excess of the number required.

We also recommend KDA create a system to track items purchased for events it hosts or coordinates. KDA should ensure that the final distribution of purchased gift items are documented in writing and accurately reflect the final distribution of each item, including the name of the individual who received the item, the date the item was transferred to their possession, and the business purpose associated with providing the gift.

Finding 4: Former Commissioner took possession of 13 rifles purchased with SASDA funds and returned only seven, leaving six rifles unaccounted for.

On June 4, 2008, five days before the 2008 SASDA conference hosted by the former Commissioner, the former Commissioner went to a local vendor and took possession of 13 Remington rifles purchased with SASDA funds. In order to take possession of the firearms, the former Commissioner was required to complete and sign an OMB No. 1140-0020 Firearms Transaction Record indicating that he was the actual buyer of these 13 rifles. See Exhibit 4. On January 17, 2012, the former Commissioner returned seven of these 13 rifles to KDA, leaving six additional rifles unaccounted for.

As is described in Finding 3, KDA purchased through its SASDA account a total of 25 rifles. The KDA employee responsible for ordering the rifles explained to the vendor in a March 6, 2008 email that the former Commissioner "had made his decisions on the gun order for SASDA 2008." In that same email, the KDA employee orders for each gun to come with a standard scope, to include the "KY Proud" stamp on the receiver, and to start numbering the rifles with #1; the email further stated, "HOWEVER, need one (1) of the 300's to have #32 on it (Commissioner's UK number)."

The vendor records, which include the signed Firearms Transaction Record associated with the transfer of the SASDA rifles, record the individual serial numbers of the guns transferred to the buyer. After comparing vendor records to KDA's SASDA attendance records, emails, and other documentation, auditors found that only 13 of the 17 SASDA participating state commissioners attended the 2008 SASDA conference, including the former Commissioner. Further, vendor records show that only those 13 state commissioners of agriculture completed a Firearms Transaction Record and were given a rifle. One KDA employee stated that if the other state commissioners did not attend the conference, they were not going to receive one of the rifles.

It was reported by various individuals interviewed during the examination that as late as 2011, the former Commissioner had several SASDA guns in his possession. The reports were made by some KDA employees who helped the Commissioner move personal effects from one home residence to another and saw the rifles during the move. The former spouse of the former Commissioner also stated that she recalled witnessing eight of the 13 SASDA rifles registered to the former Commissioner in a gun safe kept in the former Commissioner's possession in 2011.

On January 17, 2012, the former Commissioner returned seven of the 13 SASDA rifles to KDA. Upon the return of these seven SASDA rifles, KDA personnel and APA auditors inventoried the returned items. The inventoried list of returned items was then compared to the vendor documentation obtained directly from the vendor to determine rifles returned and those that were still unaccounted for. The following is a table reporting all the rifles the former Commissioner took into his possession and the rifles he subsequently returned to KDA:

Table 4: Status of the 13 SASDA Rifles Received by the Former Commissioner

Serial Number	Rifle Description	Status
71450001	300 Caliber Remington Rifle	Returned
71450002	270 Caliber Remington Rifle	Returned
71450004	300 Caliber Remington Rifle	Returned
71450005	300 Caliber Remington Rifle	Returned
71450006	300 Caliber Remington Rifle	Outstanding
71450008	270 Caliber Remington Rifle	Returned
71450014	270 Caliber Remington Rifle	Outstanding
71450019	243 Caliber Remington Rifle	Outstanding
71450020	308 Caliber Remington Rifle	Outstanding
71450021	243 Caliber Remington Rifle	Returned
71450023	243 Caliber Remington Rifle	Returned
71450026	308 Caliber Remington Rifle	Outstanding
71450032	300 Caliber Remington Rifle	Outstanding

Source: Auditor of Public Accounts based on information provided by the vendor and the Kentucky Department of Agriculture.

As is identified in Table 4 above, six rifles that were initially registered to the former Commissioner have not been returned. As has been stated previously, the former Commissioner declined to be interviewed by the APA; therefore, auditors are unable to determine the whereabouts of the remaining six rifles.

Because these rifles were purchased under the direction of the former Commissioner in his capacity as a state Constitutional officer, and he was acting in a position as SASDA President that could only be held due to him being elected Agriculture Commissioner, the former Commissioner has the responsibility to account for these outstanding rifles, as well as other items he reportedly obtained after the conference that were discussed in Finding 3.

Recommendations

We recommend the KDA administration attempt to discuss with the former Commissioner the return of the six outstanding Remington rifles and, upon their return, ensure the rifles are used or disposed of for the best benefit to the public.

Finding 5: KDA employees were used extensively as the staff for the 2008 SASDA conference resulting in at least $52,310 in estimated costs to the state.

As host of the 2008 SASDA conference, KDA utilized numerous staff to carry out nearly all duties necessary to plan, organize, and produce the event. Based on a staff work assignment listing produced by the KDA staff that was in charge of organizing the conference, the APA has calculated that at least 39 employees contributed significantly to the SASDA-related work, with duties such as transporting conference attendees, escorting tour groups, conducting children's programs, and acting as general support staff. In total, the 39 staff worked an estimated 2,015 regular, compensatory (comp), and paid overtime hours with an estimated total cost to KDA of $52,310.

The following table summarizes the estimated costs by the number and types of hours for using the 39 KDA employees as the staff for the 2008 SASDA conference.

Table 5: Estimated Cost to Staff SASDA with KDA Employees

Types of Work Hours	Number of Hours	Cost
Regular Hours	1,299	$32,080
Comp Time x 1hr.	344	9,469
Comp Time x 1.5 hrs.	340	9,495
Paid Overtime x 1.5 hrs.	32	844
Totals	**2,015**	**$52,310**

Source: Auditor of Public Accounts based on select Kentucky Department of Agriculture employee timesheets and salary information.

The estimated employee costs presented in Table 5 do not reflect the entire amount suspected to have been incurred by KDA. The extensive amount of work hours spent planning the conference by select KDA employees cannot be determined because regular work hours are not specifically coded to a project such as the conference. Also, not included in the cost estimates are those employees who were listed on the assignment document as only attending the conference or making a presentation, as these employees may or may not have performed any operational duties for the conference.

The 39 employees identified by the APA to be included in the costs estimate were determined based on the work assignment list to have likely had significant duties at the conference. According to the additional activity schedules, event pictures, and interviews with KDA staff, this determination appears correct.

The actual activities of the 2008 SASDA conference occurred from June 9, 2008 through June 12, 2008, but as many as 17 KDA employees performed setup and takedown duties and transported attendees to and from the airport on June 8th and 13th. During the conference, select employees transported the visiting commissioners to conference events and on any needed errands. Other staff acted as tour guides or escorts for attendees to visit locations such as Churchill Downs, the Kentucky Horse Park, a winery, and a shopping trip to the Fayette Mall where 15 of the attending commissioners' spouses or guests received $50 gift cards. At least three staff operated a children's program each day that included off-site trips, though only the former Commissioner's three children were in regular attendance with two others attending only part of one day. Remaining staff provided hospitality services, oversaw gift distribution, and provided other general support duties.

In total, the 2008 SASDA conference had 162 registered participants, including 53 KDA employees, 39 of whom appear to have provided the majority of the conference's operational duties. This means that approximately 24 percent of the registered participants were there with the primary purpose of working and not attending the conference or benefiting from any professional development training in any way. This resulted in an estimated $52,310 cost to KDA for a conference that did not appear to benefit the employees.

While the hosting of an associational conference can be beneficial to state agencies or the state as a whole, the cost to the public must be within reason. Given the cost associated with the large number of KDA employees working the conference, it is difficult to justify the costs as reasonable or significantly beneficial. In addition, many of the KDA employees spent a significant amount of a work week and other work days performing conference-related duties. This was time employees were not able to perform the regular work duties and conduct official state business, which is detriment to the interests of the public. Other costs incurred by KDA for the conference are addressed in Findings 1 and 2.

Recommendations

We recommend that KDA ensure that agency resources, including employees, are used in the best interests of the public and that an actual public benefit can be realized. In the future, KDA should ensure that any conferences hosted by the agency are done so with a reasonable and justifiable cost.

Finding 6: SASDA Hotel expenses used to benefit former Commissioner and his family.

On June 6, 2008, the KDA Administrative Branch Manager responsible for organizing the 2008 SASDA conference contacted a hotel representative and requested that additional rooms for the former Commissioner's extended family be billed to the SASDA account. The total cost for these additional rooms on the SASDA account was $1,380.30. In addition to this expense, the former Commissioner received over 55,000 hotel reward points, with a purchase value of approximately $688, on his personal hotel awards account for holding the conference at that venue. These points can also be exchanged for a meeting credit certificate valued at approximately $250.

According to the KDA Administrative Branch Manager, the former Commissioner requested to have rooms billed to the SASDA account for his family, and no subsequent reimbursement was made for the cost of the rooms. SASDA records show rooms were requested for the three members of the former Commissioner's family to stay Monday through Thursday nights, and for a member of his former spouse's family to stay in a room for the first two nights of the SASDA conference.

Through a review of SASDA conference registration records, auditors found that the former Commissioner's extended family members were not registered conference attendees. Auditors have not identified a legitimate purpose for the hotel rooms of the former Commissioner's extended family members to be paid as an expense from the SASDA conference account. As such, this expense was not a necessary conference expense and is considered to be a personal benefit to the former Commissioner and his family. This benefit was derived as a result of the former Commissioner's elected position as Kentucky Commissioner of Agriculture, which afforded him the opportunity to serve as the 2008 SASDA President. SASDA funds, which are intended to provide a public benefit, should be expended for the purpose of enhancing the conference and should not be used for personal benefit.

The former Commissioner also received the personal benefit of 55,000 hotel reward points for holding the conference at that particular venue. According to a corporate hotel representative, corporations or organizations are not allowed to hold a hotel rewards account. However, an account holder can exchange these points for "meeting credit certificates." For 50,000 hotel reward points, a meeting credit certificate for $250 may be received. This certificate could be used for future meetings or events at various hotel destinations. If the member, which, in this situation, was the former Commissioner, had chosen to, he could have used the amount of the certificate to assist future SASDA hosts in offsetting some costs of future conferences.

Recommendations

We recommend KDA refrain from expending SASDA or other conference funds for personal benefit when hosting or organizing future conferences. KDA should ensure that the funds dedicated to a conference or other activity are expended for the intended public purpose. We further recommend that hotel reward points resulting from hosting or organizing a conference or event be used to offset future hotels costs for conferences or events and not be used to provide a personal benefit.

Finding 7: Additional hotel rooms were reserved at the Kentucky State Fair for KDA employees who were known not to be staying overnight, so the former Commissioner could have extra rooms at his disposal.

During the 2009 and 2010 Kentucky State Fairs, the former Personnel Director reserved rooms in the names of two KDA employees who she knew would not be staying overnight during the fair. According to the former Personnel Director, she reserved the additional rooms at the request of the former Director of Outreach and Development, because the former Commissioner had told him that he needed extra rooms. The former Personnel Director stated she was told by this Director to determine what employees would not be staying overnight at the fair and reserve the rooms under their names. While the purpose of the rooms was unspecified in the request made to the former Personnel Director, interviews with KDA staff and others indicate that the rooms were used for and occupied by the former Commissioner's family members.

KDA employees routinely stay overnight during the State Fair, as many staff have significant duties, such as inspecting rides and administering shows. The majority of these staff stay in one hotel, while the KDA executive staff stay in a separate hotel. The former Personnel Director was placed in charge of reserving the hotel rooms for the executive staff, which was outside the normal travel reservation process established at KDA.

KDA invoices for the hotel rooms stayed in by the executive staff during the 2009 State Fair show that a room was paid, with KDA funds, for one of the employees that the former Personnel Director indicated she reserved for the use of the former Commissioner. The invoice also reveals that the room was directly adjacent to the former Commissioner's room. None of the other executive staff in the hotel had adjacent rooms. The room was used for 11 nights at a cost of $1,498.86.

KDA invoices for the executive staff hotel rooms during the 2010 State Fair document that the two employees who did not stay overnight had rooms paid for with KDA funds under their names. Each room was charged for 11 nights at a total cost of $2,758.64. Interviews with the two employees whose names were used in the reservations revealed that neither of them stayed overnight during the 2009 and 2010 State Fairs, that they had never planned to do so, and were never aware that rooms had been reserved in their names. They both stated this would have been common knowledge to the former Personnel Director and other executive staff.

Over the two year period, KDA spent $4,257.50 of the state's public funds on hotel rooms for two employees that did not stay overnight at the State Fair. Based on the information provided by the former Personnel Director and other individuals interviewed, this expense appears to have been for the benefit of the former Commissioner and his family members. While the former Personnel Director clearly admits her role in reserving the rooms under the names of employees who were known not to be staying overnight, the former Director of Outreach and Development has stated that he does not recall giving her a directive to find extra rooms for the former Commissioner using such a method.

It is clear that reservations for hotel rooms were made under false pretenses and KDA paid for rooms that were not used by the employees whose names were on the hotel invoices. This may have been avoided had the established reservation and payment process been followed. Under normal travel procedures at the time, KDA financial staff only reserved rooms for employees based on requests from supervisors and approval by Directors or Executive Directors. This process was circumvented by allowing the former Personnel Director to make the reservations, provide initial approval for the payment, and then directly send the invoice to the Executive Director of OSPA for payment approval.

Recommendations

We recommend that KDA follow the established approval and oversight process for all travel arrangements, including reservation of hotel rooms, regardless of the merit status of the employee.

We further recommend that, through the established approval process, KDA ensure that state funds are not used to provide travel for the personal benefit of employees, employees' family members, or others. The misuse of state funds or attempts to misuse funds should be reported to agency management. If management is the source of the misuse, KDA staff should report such issues to an outside source such as the APA, Executive Branch Ethics Commission, or Attorney General's Office.

Finding 8: KDA reimbursed the former Commissioner for costs incurred at the Boys' Sweet Sixteen State Basketball Tournament although the necessity of the overnight travel was questionable.

During the former Commissioner's tenure with the KDA, Kentucky spent $8,843 to fund an annual trip taken by the former Commissioner to the Boys' Sweet Sixteen State Basketball Tournament (Boys' Sweet Sixteen) in Lexington, KY. Due to his status as an elected constitutional officer, reimbursement of expenses are not based on the requirement that an event is 40 miles from the employee's residence, as is required for other state employees, but it is required that the reimbursement be for a necessary expense incurred in connection with official business travel. The fact that KDA advertises its KY Proud program and maintains a booth at this event does not make it necessary for the KDA Commissioner to incur lodging expense by staying overnight to perform official business. This conclusion is supported by the fact that KDA's advertising package also includes advertising at the Girls' Sweet Sixteen State Basketball Tournament (Girls' Sweet Sixteen), but the former Commissioner did not attend this event. Therefore, we question whether it was necessary for him to stay overnight, in an official capacity, at the Boys' Sweet Sixteen.

According to Kentucky's Reimbursement for Travel regulation, 200 KAR 2:006, elected constitutional officers will be reimbursed for actual and necessary expenses of official business travel upon submission of receipts for items over ten dollars. Therefore, reimbursement is allowed if it is a necessary expense related to official business and it is supported by a receipt, unless the expense was $10 or less. Because of his position as a constitutional officer, the distance of the event from the employee's residence is not a determining factor.

The business connection KDA had to the Boy's Sweet Sixteen is that KDA purchased an advertising package to promote the KY Proud program that included advertising at both the Girls' and Boys' Sweet Sixteen Tournament. The advertising package included eight tickets that could be used by KDA to attend the event at no additional cost. KDA staff worked the KY Proud booth at this event, but none of these staff requested reimbursement to spend the night. See Finding 33 for more details regarding the advertising package. The former Commissioner has a personal connection to this basketball tournament because of his previous notable accomplishments while playing in this tournament for multiple years.

The amount that Kentucky taxpayers have paid to finance this annual event nearly doubled from the first year to the last year. The following table displays the cost associated for each year per reimbursement category.

Table 6: Travel Costs Incurred by Former Commissioner to Attend Boys' Sweet Sixteen Tournaments

Category	2004	2005	2006	2007	2008	2009	2010	2011
Lodging	$674	$787	$624	$737	$635	$1,241	$1,233	$1,537
Meals	135	33	112	130	130	130	80	120
Parking/Tipping	50	60	40	135	60	70	50	40
Totals	**$859**	**$880**	**$776**	**$1,002**	**$825**	**$1,441**	**$1,363**	**$1,697**

Source: Auditor of Public Accounts based on information provided by the Kentucky Department of Agriculture.

In reviewing lodging expenses, typically only one hotel room was charged at an average nightly rate of $215, but in 2010, multiple rooms were billed to the former Commissioner's account at a rate of $163 per night. This included three rooms on the night of March 19, 2010, and two rooms on March 20, 2010. In addition, an additional night was charged for March 21, 2010, which was the Sunday night after the tournament ended. For the other years, the former Commissioner only stayed for four nights during the event, but in 2010 the length of stay was five nights.

Regarding meal expenses, the former Commissioner typically asked for the reimbursement of $10 per meal during this time except for the 2005 Sweet Sixteen Tournament. In 2005, he requested reimbursement for two meals at their actual costs for a total of $33.

For parking and tipping charges, valet parking charges were evident in the hotel invoice for some years, but in other years $10 per day parking charges were requested for reimbursement without any type of invoice. Some days there were multiple valet parking charges of $10 with the explanation that he had to leave to attend an event and then pay again on his return. Tips of $10 for bellhops were also generally requested for reimbursement, which was the maximum amount allowed for reimbursement without a receipt.

The reimbursement of the overnight expenditures does not appear necessary, nor is there documentation to support why additional rooms or the additional night's stay was necessary. KDA resources were used to pay for lodging, meal allowances, valet parking, and tips for an event in which overnight stays were not required, and it appears to have provided a personal benefit to the former Commissioner.

Recommendations

We recommend that KDA ensure that travel expenses requested by the KDA Commissioner are incurred for official business. We further recommend the cost of overnight travel be reimbursed only if it is necessary and provides a public benefit. Due to scarce public resources, every effort should be made to minimize travel cost, including costs associated with the Commissioner's travel.

Finding 9: Former Commissioner appears to have used his official position to obtain items for personal benefit.

The former Commissioner appears to have used his official position to obtain certain items for his personal benefit that were either donated to KDA by KY Proud vendors for promotional purposes, or were paid for with KDA general funds. This, in part, was able to occur due to lax controls over accounting for lower cost items, as no items under $500 are inventoried, and because of the authority of his position. The following six categories include examples of such actions.

Christmas Baskets

Through its Division of Agriculture Marketing and Agribusiness Recruitment, KDA purchases and stores various products, including KY Proud items, to assist with the promotion of agriculture and the KY Proud program. In December of 2007, and again in December 2011, the former Commissioner directed a staff member to prepare gift baskets for the former Commissioner. While the baskets created in 2007 were reportedly gifted to family members of the former Commissioner, the recipients of the baskets created in 2011 remain unclear. In both years, the staff member used products donated by KY Proud vendors, as well as items previously purchased with KDA funds, to prepare the baskets. In addition, the staff member spent at least $407 of KDA general funds to complete the baskets.

In December 2007, the staff member was directed to prepare approximately 20 Christmas baskets for the former Commissioner to give to his family members. The baskets were made with items previously purchased by KDA, as well as products donated by KY Proud vendors for promotional purposes. The former Commissioner’s former spouse visited the office and directed the staff member to include certain items in each basket.

Afterwards, the staff member spoke with the then-Executive Director of the Office of Agricultural Marketing and Product Promotion about the situation. He instructed the staff member to prepare an invoice and submit it to the former Commissioner’s former spouse. She did so; however, the invoice for $168.52 was never paid. The former Commissioner’s former spouse confirmed this accurately reflects what occurred.

In December 2011, the same staff member was told to prepare seven or eight baskets for the former Commissioner to give to agriculture groups. Believing that the baskets were again for the former Commissioner’s personal use, the staff member asked to have the request in writing. As a result, the former Executive Director for OSPA sent the staff member an email stating that the former Commissioner “has requested and approved the purchase of KY Proud products to prepare some KY Proud gift baskets for Ag groups. He asked that you please get this together from some of your various vendors.”

Because very few KY Proud products remained on hand in the office, the staff member had to purchase items specifically for these baskets. One vendor directly billed KDA $166.57 for the items purchased, and the staff member also requested reimbursement in the amount of $72.08 for items she purchased on her personal credit card for the baskets.

When completed, the baskets were left in a conference room for the former Commissioner to pick up. The former Executive Director for OSPA; however, picked up and delivered the baskets to the former Commissioner’s home instead, as requested of him by the former Commissioner. Since KDA does not maintain documentation of who the recipients of gift baskets are, nor does it employ a system to monitor its inventory of KY Proud products, documentation does not exist to determine whether these baskets were presented to Agriculture groups or if they were given to family members as Christmas gifts.

Wooden Hats

While one employee stated that the former Commissioner often approached KY Proud vendors requesting free items for his personal consumption, the APA secured confirmation of such activity from only one vendor. KDA originally contracted for a fee with the vendor to create custom fit cowboy hats for the agriculture commissioners attending the 2008 SASDA conference to be held in Kentucky.

During the summer of 2008, the former Commissioner requested that the KY Proud vendor create one cowboy hat with the "Unbridled Spirit" logo on it, which retails for $1,200 to $1,500 due to the inclusion of the logo, for him to present to the Governor. Then, according to the vendor, in December 2008, the former Commissioner requested the vendor make two plain cowboy hats for the former Commissioner's uncle and father, which retail for $600 each, both requested to be made at no charge, and to complete the hats in time for Christmas. The vendor agreed to make the two hats, but indicated that they would not be ready in time for Christmas due to the large volume of orders he already had promised to complete prior to the holidays. The vendor finished the hats in January 2009.

According to the vendor, the former Commissioner also asked the vendor to make a large natural edge bowl for the former Commissioner's mother and for his former spouse, but the vendor declined to make the bowls, stating later that "the amount of artwork I was to provide with no profit to be made by me simply got out of hand." When asked by auditors why a vendor would give away as many items as he had, the vendor claimed that "a lot of promises were made – take you here/there, get your product in the permanent collection, expand your marketing opportunities, etc.," but in the end, the vendor indicated that he received very little out of this venture and did not see the residual impact he had expected.

Refrigerators

According to interviews with staff and the former Commissioner's former spouse, two small refrigerators were purchased with KDA funds. One of the refrigerators was used at the former Commissioner's home, and the other was apparently used at his former spouse's workplace. Because the refrigerators were valued at less than $500 each, they were never entered into the KDA inventory.

According to a statement made by one employee, he was contacted after the end of his workday on February 22, 2010, by the former Executive Director of OSPA to go to a local home center to purchase a compact refrigerator for the former Commissioner's home office, as the one that had been in use was no longer functional. After stopping to pick up a state vehicle at the office to transport the item, the employee purchased a Frigidaire 4.4 cubic foot compact refrigerator for $179 and delivered it to the home of the former Commissioner. He and the former Executive Director of OSPA carried the refrigerator downstairs to a home office area in the former Commissioner's basement.

Two days later, the employee requested and received approval via email for the purchase from the then-Executive Director of Consumer and Environmental Protection and from the former Executive Director of OSPA. The employee was told verbally to include the relevant amount of time attributable to this errand on his timesheet. KDA remains in possession of this refrigerator, as it was returned to the Commissioner's Office.

A second refrigerator of the same type and price was purchased on August 11, 2010, by a different employee. The former Executive Director of OSPA also approved this purchase. According to an interview with the former Commissioner's former spouse, this refrigerator was bought and used at her workplace. The text from an electronic exchange between the former Commissioner and his former spouse regarding the refrigerator follows. The exchange occurred prior to the former spouse's interview and she has since turned over this refrigerator to the APA.

- Former Spouse on 1/12/2012 @ 10:44a: "You need to get the refrigerator that is at the school. I don't know how you acquired it but in case it is the one in question I don't want it anywhere around me."
- Former Spouse on 1/12/2012 @ 10:52a: "And if it is that fridge in question turn it in!"
- Former Commissioner on 1/12/2012 @ 10:53a: "It would have been nice to know sooner!!"
- Former Spouse on 1/12/2012 @ 11:04a: "Know what? You know you gave me a fridge. You helped me put it in my room at school."
- Former Commissioner on 1/12/2012 @11:08a: "Have you had amnesia?"

File Cabinets

A KDA staff person used a KDA-issued Procard to purchase two legal-sized file cabinets on April 2, 2010 and, with another staff member, delivered at least one of the two cabinets to the former Commissioner's home office area. The cost of each file cabinet was $339.00, totaling $678.00. Because the file cabinets were valued at less than $500 each, they were not entered into KDA inventory. Several staff members and the former Commissioner's former spouse stated that the former Commissioner did not return the file cabinet(s) to KDA at the end of his term in office.

Shirts

Multiple interviewees stated that the former Commissioner ordered expensive name-brand shirts, with and without a KY Proud or KDA logo. Through the APA's sample expenditure testing from July 1, 2008 to December 31, 2011, it was determined that KDA paid a single vendor $3,436.58 for 70 shirts, averaging approximately $49 per shirt. Twenty-nine of those 70 high-quality shirts were specifically noted as being for the former Commissioner. Eleven shirts purchased did not have a KDA or KY Proud logo on them; however, it is not known if all 11 of these shirts were for the former Commissioner, as the documentation for this purchase does not list a specific recipient or reason for the purchase.

Table 7: Shirt purchases from a Single Vendor

Purchase Made By	**Description of Purchase**	**Date of Purchase**	**Quantity**	**Cost per Shirt**	**Total Cost of the Shirts**
KDA Procard	8 Nike Golf Dri-Fit Body Mapping Shirts - Blue w/KY Proud logo embroidered	05/16/08	8	$55.00	$440.00
KDA Procard	4 Nike Golf Dri-Fit UV Textured Sport Shirts - White w/KY Proud logo embroidered	05/16/08	4	$45.00	$180.00
KDA Procard	2 Nike Golf Dri-Fit Classic Sport Shirt - Green w/KY Proud logo embroidered	05/16/08	2	$40.00	$80.00
Direct Payment	Nike Golf Dri-Fit Mapping Sport Shirt w/KY Proud Logo - Blue	09/04/08	4	$55.00	$220.00
Direct Payment	Nike Golf Dri-Fit Mapping Sport Shirt w/KY Proud Logo - Black	09/04/08	4	$55.00	$220.00
Direct Payment	Nike Golf Dri-Fit UV Textured Short Shirt w/KY Proud Logo - White	09/04/08	4	$45.00	$180.00
Direct Payment	Nike Golf Dri-Fit Classic Short Shirt w/KY Proud Logo - Vivid Green	09/04/08	2	$40.00	$80.00
Direct Payment	Nike Golf Dri-Fit Mapping Classic Sport Shirt w/KY Proud Logo - Green	7/21/09	17	$40.00	$680.00
Direct Payment	Nike Golf Dri-Fit UV Textured Sport Shirt w/KY Proud Logo - Blue	7/21/09	2	$45.00	$90.00
Direct Payment	Port Authority Pique Knit Sport Shirts w/KY Proud Logo - Red	7/21/09	1	$26.00	$26.00
Direct Payment	Port Authority Pique Knit Sport Shirts w/KY Proud Logo - Royal	7/21/09	1	$26.00	$26.00
Direct Payment	Nike Wind Shirt w/KY Proud Logo	12/22/09	1	$71.98	$71.98
Direct Payment	Adidas Wind Shirt w/KY Proud Logo	12/22/09	1	$59.98	$59.98
KDA Procard	Golf Style Shirts with embroidery	07/21/10	4	$78.98	$315.92
KDA Procard	Golf Style Shirts	07/21/10	6	$54.98	$329.88
KDA Procard	Golf Style Shirts	07/21/10	5	$64.98	$324.90
Direct Payment	Shirts w/KY Proud Logo - Royal	10/27/11	2	$27.98	$55.96
Direct Payment	Shirts w/KY Proud Logo - Steel	10/27/11	2	$27.98	$55.96
			70	**--**	**$3,436.58**

Source: Auditor of Public Accounts, based on sample expenditure testing from 7/1/08 to 12/31/11.

Laptop computers, docking stations, and other equipment

According to an interview with the former Commissioner's former spouse, the former Commissioner requested the Director of the Division of Information Technology to assist him in setting up a home office in this basement. KDA purchased four laptop computers on March 3, 2010, at a base price of $979 each, but at a final price of $1,289 each with the requested upgrades and bundles included.

Despite being originally purchased to replace the computers of four KDA employees working within the Division of Personnel and Budget, upon arrival, three of these computers were assigned to the former Commissioner instead of the intended staff. Staff interviewed recently about the change in assignments speculated that when the former Commissioner saw the new laptops, he most likely took them for himself, as was often the case when new equipment was purchased. While one laptop computer and its related accessories that was assigned to the former Commissioner that remains unaccounted for, on January 17, 2012, after the APA examination had been announced, the former Commissioner returned the following office-related items to KDA, all of which were seemingly in his personal possession outside of the KDA offices:

- two laptop computers, bags, and power cables;
- two docking stations;
- two monitors, which were not a part of the March 30, 2010 purchase;
- two monitor stands;
- two computer keyboards;
- two computer mouses; and
- one all-in-one printer with copying, scanning, faxing, and printing capabilities, which was also not a part of the March 30, 2010 purchase.

Each laptop computer was tagged and included in the official KDA asset listing maintained in eMARS, the state's accounting system. The remaining items associated with this purchase, as well as the monitors and printer returned on January 17, 2012, were not included in the asset listing or tagged as property of KDA. In addition to the missing laptop purchased on March 3, 2010, KDA inventory records show another laptop previously assigned to the former Commissioner has not been accounted for.

In addition to confirming the laptops were on the asset listing, the APA forensically reviewed the laptop computers returned by the former Commissioner for data and information relevant to this examination. KDA procedures provide that laptops assigned to former employees are "wiped," meaning areas of the hard disk in the computer are effectively overwritten so that any material stored in those areas is unrecoverable. The laptops returned by the former Commissioner were "wiped" prior to their return, but in an uncharacteristically aggressive manner. The disks on these computers were completely wiped, meaning every addressable space had been effectively overwritten, including system areas that are normally inaccessible to the typical user or application software. This typically requires special software and expertise. This extreme level of deleting information from computer disks was not in keeping with the KDA's procedures and all information that could have indicated when and how those computers were used was deleted, including web browsing history, file downloading, document creation and use, computer gaming, email or other correspondence, and any other activity.

Recommendations

As stated in the recommendations for Finding 29, we recommend that KDA create, document, and implement a process to account for all KY Proud products held for promotional purposes.

We also recommend that KDA evaluate the various clothing items purchased for staff to ensure the items are necessary, serve a public purpose, and are reasonable in amount.

We further recommend that KDA tag and maintain an internal inventory of certain items that have been assigned to individuals, have a useful life of one year, and have a value of less than $500. Such items may include monitors, docking stations, monitor stands, printers, or cell phones.

Finding 10: Former Commissioner of Agriculture did not report numerous gifts given to him as required by the Executive Branch Code of Ethics.

Through the examination of KDA, auditors determined that the former Commissioner received numerous gifts from various sources during his tenure. According to the Executive Branch Code of Ethics, all public servants, such as the Commissioner of Agriculture, must report any gifts they have received that exceed $200 when filing the required Statement of Financial Disclosure form with the Executive Branch Ethics Commission. A review of the former Commissioner's Statement of Financial Disclosure forms for years 2004 through 2011 show that no gifts were ever reported since taking the position of Commissioner of Agriculture.

Within the Executive Branch Code of Ethics, KRS 11A.050(3)(k) states that Statements of Financial Disclosure form should include,

> Sources, including each source's name and address, of gifts of money or property with a retail value of more than two hundred dollars ($200) from any one (1) source to the filer, his spouse, or dependent children, except those from a member of the filer's family.

Based on information obtained during the examination, the former Commissioner received gifts in excess of a $200 value from a variety of sources. In 2008, KDA hosted the annual meeting of SASDA and at that time the former Commissioner served as the President of SASDA. For that conference, several gifts were purchased and distributed to each of the state agriculture commissioners or secretaries. As a member of SASDA, the former Commissioner received each of these gifts as well. This included a rifle, a wooden hat with stand, a silver plate, cigars and box, bottles of bourbon, a watch, a knife, and other incidental gifts.

While the value of certain items are not known due to some being donated, SASDA records indicate that the rifles were purchased for $449 each, knives for $90 each, silver plates for $100 each, and cigars with boxes for $17 each. The wooden hat with stand was purchased by SASDA for an estimated $325, but the retail value of the two items is typically approximately $1,360. According to KRS 11A.050(3)(k), it appears that each of these gifts should have been reported on the former Commissioner's Statement of Financial Disclosure form as they came from one source and have a collective retail value well over $200.

It is also understood that gifts were distributed at other SASDA annual meetings hosted in other states. If the value of these items exceeded $200 in a calendar year, they should have been reported as well.

KDA documents also indicate that the former Commissioner received 55,000 points from a hotel reward program for the rental of rooms and conference space during the 2008 SASDA annual meeting. While such an item does not meet the traditional view of a gift, KRS 11A.010(5) defines a gift under the Executive Branch Code of Ethics as follows:

> "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public.

As the reward points can be used as a method of receiving future services from the hotel, they have a value. Due to the significant amount of points, the points have an estimated retail value of $688, which is over the $200 threshold required for disclosure. See Finding 6 for additional information regarding hotel reward points.

Further gifts provided to the former Commissioner were also identified during the examination. This includes three wooden hats and one wooden hat stand that was provided by the vendor that created the hats and stands. The former Commissioner also received $900.40 of free concrete from a local vendor to construct a basketball court at his personal home. The value of these gifts from each of these sources far exceeded the $200 threshold for reporting on the Statement of Financial Disclosure form.

Recommendations

We recommend all officers and public servants, as defined by KRS 11A.010, submit a Statement of Financial Disclosure form to the Executive Branch Ethics Commission that includes all gifts received with a value over $200, as required by KRS 11A.050(3)(k).

Use of State Employees for Personal Benefit

Throughout this examination, while conducting interviews of various individuals, including current and former KDA personnel, auditors were consistently informed of instances of KDA employees performing work or tasks at the residence of the former Commissioner, such as moving personal effects, mowing the yard, and building a basketball court. Auditors were informed of employees running personal errands, such as getting and paying for lunch or other personal expenses, for the former Commissioner and his family unrelated to the work of the KDA, and transporting the former Commissioner, his family, and dog, in a state vehicle on personal trips at the request of the former Commissioner.

Auditors considered and examined each issue they were informed of while conducting interviews. In some instances, auditors located documentation or received multiple independent accounts from different sources that provided support for the concerns expressed. In other instances, however, auditors were not able to obtain any documentation or consistent statements to substantiate the concerns. The following two findings relate to the concerns expressed to auditors involving KDA employees performing errands, tasks, or work of a personal nature that could reasonably be substantiated. See Findings 11 and 12 for findings related to the use of state employees for personal benefit.

Finding 11: KDA employees performed work at the former Commissioner's personal residence during a workday.

During the former KDA administration, KDA personnel worked to build a basketball court and retaining wall at the former Commissioner's residence. KDA personnel also moved a gun safe from the former Commissioner's garage into his basement, reportedly during work hours.

Basketball Court

Auditors were advised by current and former KDA employees and others that they built a basketball court and retaining wall in the backyard of the former Commissioner's residence. The same individuals were consistently identified as performing the work. In total, four KDA employees, one merit employee and three non-merit Special Assistants, worked to build the basketball court at the former Commissioner's residence. See Finding 24 regarding the Special Assistants.

After gathering documentation from independent sources, auditors were able to determine that the work was performed in the summer of 2006. Documents show that vendors delivered landscape stones and filter fabric to the former Commissioner's residence on June 16, 2006, and concrete on June 29, 2006.

One merit employee who assisted in performing this work stated it took him and others three to five days to finish the job with the work being performed between 10 a.m. to 2 p.m. or 2 p.m. to 5 p.m. on various days. He indicated that he was uncertain whether one of the non-merit Special Assistants was actually employed by KDA at that time.

According to documentation obtained by auditors from outside sources, one of the employees who assisted with the construction project signed for the landscape stones and fabric when they were delivered to the former Commissioner's residence on Friday June 16, 2006. This individual officially began work as a Special Assistant in the KDA Office of the State Veterinarian on June 19, 2006, the following work week. Although the individual had not officially reported to work the day the delivery of landscape stones and fabric was made, the process to employ the individual into a non-merit position had been previously initiated and he had been hired by KDA.

The merit employee stated that he and two of the Special Assistants formed the court area and filled it in with gravel, and then all four employees present assisted in pouring the concrete. The Special Assistant in the Office of Consumer and Environmental Protection, acknowledged helping the former Commissioner with the basketball court stating that it took about half a day to do the work. However, stated to auditors that he was not on state time and he drove his personal vehicle to the former Commissioner's residence. Because the employee's residence is approximately two hours from the former Commissioner's residence, the employee would have had approximately four hours of drive time in addition to this work.

Auditors reviewed timesheets of these four individuals and found that the Special Assistant, who had acknowledged helping to form the court and spread and finish the concrete when it was delivered but stated he did not charge work time for that day, actually charged five hours of work that day. Reporting the five hours of work on June 29, 2006 resulted in the employee receiving 4.5 hours of paid overtime for that week, since the Special Assistant worked a flex schedule and had already charged 39.5 hours of time for Monday through Wednesday of that work week. Auditors also found that the employee completed overtime requests for all the days he charged overtime hours with the exception of June 29, 2006, the day the concrete was delivered to the residence.

Auditors also found that the Special Assistant who had signed the June 16, 2006 delivery ticket for the landscape stone two weeks prior to the concrete delivery charged 7.5 regular work hours the day the concrete was delivered on June 29, 2006. The timesheets showed that the merit employee took 9 hours of annual leave as a vacation day while the third Special Assistant used June 29, 2006 as a flex day.

While state employees were used to construct the basketball court and retaining wall at the former Commissioner's residence, and two of the former KDA non-merit personnel charged work hours on the day the concrete was delivered, the materials were not purchased by KDA. Auditors obtained records documenting that the landscaping materials were purchased with the former Commissioner's personal funds and, according to the concrete vendor, the concrete valued at $900 was provided free of charge to the former Commissioner.

Moving

Auditors interviewed KDA employees who stated that they had to move a gun safe from the former Commissioner's garage into the basement at the former Commissioner's personal residence. The employees were unaware how or when the safe was actually purchased, but stated that they were asked to move the safe into the former Commissioner's basement. Employees indicated that they often felt required to perform personal tasks when requested by the former Commissioner and KDA management in order to stay in good standing. One employee who assisted in moving the safe recalled specifically asking the former Commissioner if he needed to take personal leave for the time it took him to move the gun safe at the former Commissioner's home and the former Commissioner told him not to take leave time.

While auditors did receive information related to other instances of KDA personnel being used to move personal effects on behalf of the former Commissioner, those individuals did not indicate that the work was performed during work hours or that they felt pressured to perform the work. Nonetheless, it is inappropriate for an agency or its elected official to use State personnel, whether merit or non-merit, to perform personal work on behalf of an elected official. Employees may perceive the request to perform personal work on behalf of the official as being a directive that, if not performed, might endanger their jobs.

Recommendations

We recommend state personnel not be asked, or used, to perform personal errands for their state employer, or to move the employer's personal effects. Employees should not be placed in a position, in performing such actions, that they feel their employment could be jeopardized if they failed to do so.

Finding 12: KDA employees were directed to drive the former Commissioner on personal excursions.

During the examination, auditors received multiple reports from current and former KDA personnel and others regarding trips where the former Commissioner directed employees to either drive him or to accompany him in the Commissioner's KDA-assigned vehicle. KDA personnel questioned the appropriateness of performing these tasks, but often stated that they were doing what they were told to do. Some indicated they felt if they declined to travel with the former Commissioner, their employment with KDA would be jeopardized.

Shopping Trips

Two KDA employees reported taking the former Commissioner and his former spouse on shopping trips. The trips, most of which were for Christmas shopping, required the employees to travel to pick up the former Commissioner and his former spouse at their home residence and drive them in a state vehicle to Lexington, Ky. Employees were uncertain whether they performed this work during work hours or on weekends.

One merit employee stated that he had taken the former Commissioner and his former spouse to a downtown Lexington store for Christmas shopping where the former Commissioner picked up college athletic apparel free of charge and then the employee had taken both the former Commissioner and his former spouse to a store at another location.

On April 13, 2010, this same merit employee was called upon by the former Commissioner to accompany the former Commissioner to an outdoor sportsman's retail shop in Indiana. At the time the employee received the call from the former Commissioner, the employee was attending a training course at a local university in Frankfort, Ky. According to the employee, he had to leave the training session midway through the class, drive to the former Commissioner's home in Frankfort, pick the former Commissioner up at his residence, and accompany him to the store. The employee stated that this trip took approximately three hours, including drive time, and was taken on a workday. The employee believed the trip was a personal trip, recalling that the former Commissioner purchased a hunting blind during this excursion.

The employee stated that the former Commissioner told him at one point when the employee was with him on these types of trips, they were "on the clock." The employee believed the former Commissioner anticipated that he would charge work time for these trips. The statement was made several times by KDA personnel that the former Commissioner stated that he was the KDA Commissioner 24 hours a day, seven days a week, and as such, employees were told or given the impression that they were performing work-related tasks while accompanying him on various trips, even if the trips were personal and not work-related.

Hunting Trips

Through interviews with KDA employees and others, auditors were informed of instances in which KDA personnel were asked to take the former Commissioner on hunting trips. Again, auditors are only reporting those instances in which multiple individuals made similar statements and identified themselves as the ones called upon to perform the task.

According to the KDA employee directed to go shopping with the former Commissioner on April 13, 2010, the employee stated that he was occasionally called to also take the former Commissioner on hunting trips. The employee stated that he took the former Commissioner deer and turkey hunting, and that after the third or fourth time he was called to do this, he started recording leave time from work. Previously, the employee stated that he took the former Commissioner hunting and charged his time to state work hours; however, he was unable to recall the specific dates. The KDA employee stated that he and the former Commissioner were good friends but the former Commissioner was still his boss.

Another KDA merit employee stated that he was directed by the former Commissioner several times during the earlier years of the former Commissioner's first term in office to drive the former Commissioner to various locations. He stated that he was once asked by the former Commissioner to drive him to a local magistrate's farm to hunt. The employee stated that he drove the former Commissioner's state assigned vehicle to the magistrate's farm, and that the former Commissioner shot a doe while sitting inside the state vehicle. The employee stated that he was then instructed by the former Commissioner to remove the doe's back straps or tenderloins, bag them, and place them in the truck. The employee could not recall if this was during a workday or on the weekend. KRS 150.360 states, "[n]o person shall take or attempt to take any wildlife, protected or unprotected, from an automobile, or other vehicle, unless prescribed by regulation."

Doctor visits and other trips

At least three current or former KDA employees reported to auditors that they had driven the former Commissioner to various doctor appointments. One merit employee stated that he was asked by the former Commissioner to drive him to a dental appointment to a dentist's office in southeastern Kentucky. The employee stated that he drove the former Commissioner to the dentist's office on what he believed it was a workday, but could not say for certain. This same employee stated that he was asked to take the former Commissioner on several trips during his first term in office and that if it was a work day he would likely charge the hours as work hours, but if it was on the weekend, he would not. This employee stated that he was told directly by the former Commissioner that he was to do what the former Commissioner told him to do, so the employee believed that to be part of his job.

Another KDA employee, who formerly served as the Executive Director of the Office of Consumer and Environmental Protection, was reported by many current and former KDA personnel to be the individual most frequently called upon to drive the former Commissioner to various locations during his second term in office. The former Executive Director acknowledged that he drove the former Commissioner around to various locations and stated that he struggled with the situation. He noted that he had to take the former Commissioner early one morning to a doctor's office visit, and that as he waited, he thought to himself that this was a personal trip, but that he was driving a constitutional officer in a state vehicle, and he was doing what he was asked to do by his employer.

The former Executive Director stated that if he were taking the former Commissioner on trips, he would claim that as work time. He stated that, as a non-merit employee, he was doing what he was told to do, and since he served at the pleasure of the constitutional officer, that if he, as a non-merit employee, did not perform the tasks he was requested to perform, then he would not be working there anymore.

The former Executive Director recalled times when he was asked to drive the former Commissioner and his family members to the Boys' Sweet Sixteen tournament in Lexington. The Sweet Sixteen event was a promotional opportunity for KDA, so the former Executive Director noted this was one of those instances where it could be work-related. However, the employee was asked, in certain years, to drive the family to the event, and then travel back days later to return them home. The former Executive Director stated that he thought it was not up to him to draw the line of distinction as to whether the trip was personal or business related, but that it was up to him only to do what he was told to do by the former Commissioner.

One year during the Kentucky State Fair, the former Commissioner and his family traveled with their dog to a Louisville hotel. Pets were not allowed in the hotel so on at least two evenings a KDA employee was directed to drive the family pet back to the former Commissioner's residence in Frankfort, Kentucky.

As has been reported to auditors by various personnel, and stated throughout this finding, KDA personnel believed that they were only doing as they were directed to do by the former Commissioner. Because much of this time was not documented in KDA records as personal errands, auditors are unable to determine the full cost to the state of the employees' time and the use of the former Commissioner's vehicle to perform such personal errands. KDA personnel stated on numerous occasions that they felt the requests were made to them as part of their job duties, and that if these directives were not followed, they could lose their jobs.

According to KRS 11A.020(1)(d),

> No public servant, by himself or through others, shall knowingly:
>
> (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

By using public employees in the capacities that were reported to auditors from various KDA employees and other sources, it appears the former Commissioner may have violated this statute on numerous occasions.

Recommendations

We recommend KDA personnel be trained as to the appropriate use of state time and resources. In light of KRS 11A.020, we recommend KDA seek training on this matter from the Kentucky Executive Branch Ethics Commission, as it is authorized, under that KRS 11A.060, to administer and enforce the provisions of the state's Executive Branch code of ethics.

Finding 13: KDA used proceeds from ginseng sale inconsistent with federal requirements.

Approximately six months after collecting over $241,000 from the surplus sale of wild American ginseng, KDA expended $43,000 of that amount toward the purchase of eight Ford Explorer vehicles for its Animal Enforcement Officers. As Animal Enforcement Officers do not perform duties associated with the ginseng program, this $43,000 expenditure did not meet the requirements set forth by the United States Fish and Wildlife Service (USFWS), which stated in an October 25, 2007 letter to KDA, "[t]he proceeds from the sale of this legally acquired ginseng shall be used by KDA exclusively for the purposes of promoting and educating all parties involved with the recording, harvest, purchase, sale, and transfer of ginseng."

The wild American ginseng that sold through a Finance Cabinet surplus property sale was provided to KDA in late 2007 after it was confiscated in Kentucky by the USFWS during a 21 month federal investigation in Kentucky and elsewhere into the illegal sale of ginseng out of season. Documentation details that the ginseng was transferred to KDA with the understanding that the ginseng would be sold through a surplus sale and that the proceeds would be used for a very specific purpose, as stated in the paragraph above. According to the USFWS Special Agent involved in the investigation and transfer of the ginseng to KDA in 2007, this transfer of ginseng to KDA was unprecedented and he was disappointed to learn that the funds were not used as USFWS had intended.

On June 5, 2008, KDA expended from the ginseng account $43,000 to a local car dealership. This amount was applied to the $219,792 in total costs for the eight Animal Enforcement vehicles. According to the Administrative Branch Manager over KDA fleet vehicles, "I submitted the request for approval based on purchasing them out of the Fleet account GWD283. I had no idea those were paid for from any other account."

In discussing the transaction with a KDA OSPA Internal Policy Analyst, auditors were informed that the former Commissioner "told the budget and fiscal branch to charge the vehicles to these funds," which included funds from the ginseng account. The Administrative Assistant in OSPA who acts as the KDA budget liaison did not recall any discussions stating that the ginseng funds could not be used for the purchase of vehicles. While auditors do not question that a vehicle purchase may fall within the criteria established by the USFWS in its October 5, 2007 letter to KDA personnel, the question is whether the vehicle purchase was "exclusively for the purposes of promoting and educating all parties involved in the recording, harvest, purchase, sale, and transfer of ginseng." Documentation indicates the purchase was not made in agreement with the established criteria and, as such, KDA violated this agreement.

Recommendations

We recommend KDA use the ginseng surplus proceeds solely for purposes that comply with USFWS criteria for the use of these funds, which states, "[t]he proceeds from the sale of this legally acquired ginseng shall be used by KDA exclusively for the purposes of promoting and educating all parties involved with the recording, harvest, purchase, sale, and transfer of ginseng."

We also recommend KDA discuss this matter with the USFWS to determine how this issue may best be resolved. We further recommend that if proceeds are realized when fleet vehicles are disposed of, KDA should consider using these funds to restore the $43,000 to the ginseng account that was used toward the purchase of vehicles.

Finding 14: KDA paid a grant recipient the full grant amount without requiring the recipient to meet grant requirements.

On March 8, 2010, a KDA Staff Assistant with the KDA Office of Agriculture Marketing and Product Promotion emailed the former Commissioner to inform him of concerns he had with a grant recipient's performance involving a $15,000 matching grant. In this same email, the Staff Assistant suggested that KDA hold the remaining amount of the grant, $7,500, until KDA could "see actual purchases and performance coming closer in line with their promises." Three days later, the KDA employee authorized the release of the remainder of these grant funds to the grantee noting that he did so at the direction of the former Commissioner.

The vendor performance in question related to a $15,000 KY Proud Point of Purchase (POP) grant KDA awarded to a Kentucky basketball facility. According to KDA, POP grant funding is one part of the overall KY Proud grant funding derived from tobacco settlement funds, which are provided to KDA by the Kentucky Agricultural Development Board. The individual grants are awarded by a team of KDA personnel involved in the KY Proud program and are to be paid out to the grant recipient on a reimbursement basis only.

The grant, awarded November 3, 2009, was signed by both KDA and the vendor with the understanding that the grant would have an estimated direct farm impact of $500,000. This direct farm impact was to occur through specific purchases planned by the vendor for pork, apples, and chicken from Kentucky farm families. The grant agreement also required the grant recipient to fulfill certain advertising requirements involving the KY Proud logo and program name.

According to KDA grant files, the grant recipient requested full payment of the $15,000 in February 2010. On February 25, 2010, the KDA Staff Assistant, designated in the grant agreement as the point of contact for reimbursement payments related to this grant, emailed the vendor stating that the former KDA Director of Public Relations had sent him the vendor's information and he was not certain he had all the necessary information to process the full grant reimbursement. The Staff Assistant stated in the email to the vendor:

> Is this the complete list of all purchases to date or am I missing more data? Is there any way to dramatically maximize sales or attention to these Kentucky Proud items, perhaps with a coupon you print off and hand out or something? These sales numbers are going to make it very difficult for me to release all the grant at once.

Upon receipt and review of documentation submitted by the grant recipient, the KDA Staff Assistant authorized an initial payment of $7,500 on March 1, 2010. The Staff Assistant then emailed another KDA employee, the former Executive Secretary within the Office of the State Veterinarian, stating:

> The contract they signed promised as follows: $15,000 match from [the grant recipient] that includes a $9,000 discount on the graphics and $6,000 worth of T shirts that they would buy for players with the KYP logo. [The grant recipient] would pay those expenses; in exchange, we would pay $15,000 via the grant for the total project cost of $30,000.
>
> They estimated attendance of 800,000 to 900,000 per year and estimated $500,000 in direct farm purchases.
>
> To date, I have received $317 in food expenses and no paperwork regarding their part of the match.

The email continues:

> In good faith, I have authorized $7,500 of our grant.
> On all POP grants, we seek $1 in direct farm impact for every 3 cents that we award. That's how the $15,000 grant was determined based on $500,000 in farm impact for 2010. We would need to average more than $40,000 a month in food, which they felt was possible. At $317, and promises of more than $1,000 to come in the next week, I'm raising concerns about whether we can finalize the remaining balance.

At the end of the email, the KDA employee asked the former Executive Secretary to ask the former Commissioner "for instructions on whether he blesses this strategy or has other advice for me."

Following this communication, the KDA Staff Assistant emailed the former Commissioner on March 9, 2010, explaining the situation with the grant award and asking the former Commissioner for his advice on how to proceed and then stated, “[w]e are very careful about treating every KY Proud member by the same standards and making sure that we have the direct farm impact and return on investment required by our guidelines. My suggestion is to hold the remaining balance of the $7,500 grant until later in the year when we see actual purchases and performance coming closer in line with the promises.”

During an interview, the KDA Staff Assistant told auditors that he felt the grant recipient was becoming frustrated with him and he believed the recipient had gone directly to the former Commissioner. The Staff Assistant stated that he wanted to create a paper trail and wrote the email to the former Commissioner thinking that he would be able to tell the former Commissioner the facts of the situation and that the former Commissioner would support him. The employee stated that he was contacted by the former Director of Public Relations following his email to the former Commissioner, stating that the former Commissioner was upset by the Staff Assistant documenting his message through email. He noted that he had been told not to document “things” through email.

The KDA Staff Assistant stated that he was directed by the former Executive Secretary within the Office of the State Veterinarian that the former Commissioner authorized full payment of the grant to the grant recipient and to give the recipient a chance to perform. KDA would later assess whether it would offer any future grants to the recipient if it proved not to meet the requirements of the current grant. The Staff Assistant stated that the grant recipient was in non-compliance when they received full payment of the grant from KDA. He stated that once the grant funds were paid there was no point in following up on the use of the funds. The Staff Assistant stated that the grant recipient was to work with certain KY Proud vendors to fulfill the direct farm impact requirement of the grant and that he had discussed matters with those KY Proud vendors. This was done after the grant recipient received the full $15,000 payment and the vendors told the Staff Assistant that they were disappointed the partnership did not work with the basketball facility.

As the granting agency, KDA has the responsibility to ensure that the grant funds it awards are used in accordance with the terms of the agreement. Using reimbursement grants, KDA has the authority to ensure compliance; however, by granting full payment without first requiring the recipients to meet their obligations, KDA did not exercise its authority to ensure compliance and its ability to ensure that direct farm impact is achieved.

Recommendations

We recommend KDA require compliance with its grant agreements. KDA should ensure that tobacco settlement funds, for which it has oversight responsibility, are used solely for the intended purposes and that grant recipients are all held to the same performance standards.

Finding 15: KDA purchased two 60-inch televisions with questionable necessity to the agency.

In March 2010, KDA purchased two 60-inch televisions and the corresponding wall mounting brackets for a total cost of $4,192.75. One is mounted in an executive conference room, while the other is mounted in the Commissioner's office. The cost for each television was $1,971.99, and the cost for the mounting brackets was $124. The amount of $124.77 was paid for the expedited shipping charges of the mounting brackets, doubling the cost of the brackets. No official need or justification for such large and expensive televisions was provided by any KDA staff. Various staff stated in interviews that the expedited shipping charge for the brackets was to ensure that the televisions would be available in time for the former Commissioner to watch the NCAA basketball tournament.

Expenses for all state agencies should be justifiable through a demonstrated need in order to carry out the duties of the agency. In the case of 60-inch large screen televisions, it may be possible to justify such an expense for installation in a conference room if it will be used for a legitimate business purpose such as training or planning. It is not clear how such an expense was justifiable for a single individual's office considering a large television was being installed in a nearby conference room.

Further calling into question the legitimacy of the television purchase is the expedited shipping of the mounting brackets. If statements made by KDA staff are accurate, at a minimum, an appearance exists that the television in the Commissioner's office was purchased for personal use and not due to an immediate agency business purpose. This would be a waste of public funds and would not add to the benefit of those the agency serves.

Recommendations

We recommend KDA ensure that all purchases have a legitimate business purpose that can be justified as necessary expenses to carry out the mission of the agency. While agencies such as KDA should have discretion in the items purchased, they should be able to clearly demonstrate, when requested, the necessity of the purchase and how the expense benefitted the mission of the organization.

Finding 16: KDA reimbursed the former KDA Commissioner and other non-merit employees for questionable expenditures.

Questionable reimbursements were found in our judgmental sample of employee reimbursements. While reimbursement guidelines for elected officials differ from those for other state employees, only expenditures necessary for official business should be reimbursed. In certain instances, reimbursement documentation auditors reviewed did not identify the business purpose for the expenditure, and a few items for the former KDA Commissioner were placed on another employee's travel voucher. Requests for reimbursement were made for gasoline purchases when the employee was reportedly driving a state vehicle. Electronic equipment purchases should be made using established vendor contracts to ensure the proper procurement process is followed. Gasoline purchases should be made using a fleet credit card that requires the use of a security code and records the mileage of the vehicle to assist management in monitoring fuel purchases and to ensure the gasoline is purchased for a state owned vehicle, not a personal vehicle.

While examining employee travel vouchers, auditors identified various reimbursements made to the former KDA Commissioner and other KDA officials that appear questionable. The following describes these expenditures:

- The former KDA Commissioner was reimbursed on February 22, 2008, for a "no show fee" of $263.38 for a room at the Galt House in Louisville. According to the travel voucher, the intended purpose for the room charge was to attend the Farm Machinery Show. The reason the former Commissioner did not use, or cancel, the room to avoid the charge was not documented.

- The former KDA Commissioner was reimbursed $230 on November 15, 2010, for tickets to WEG. The only documentation to support the purchase was a copy of two tickets for the WEG opening and closing ceremonies and a redacted credit card statement noting a purchase related to the WEG for $460 with a handwritten note that half would be $230.

- The former KDA General Counsel made several purchases including $14.83 on September 9, 2008 for ink cartridges, $135.66 on November 24, 2008 for ink cartridges for the former KDA Commissioner, and $264.99 on June 28, 2011 for an air card for a laptop. The former KDA General Counsel also purchased $359.80 for gas for a state vehicle with the justification that the stations did not take the fleet gasoline card. Documentation did not provide a reason for these purchases or an explanation for not fueling at a station that used a fleet gasoline card.

- The former KDA Executive Director of the Office for Consumer and Environmental Protection incurred expenses during the examination period while escorting the former KDA Commissioner. These purchases included phone batteries, drinks, and snacks totaling $71.95. On January 5, 2008, the former Executive Director requested a $50 reimbursement for parking, food, and tips for a trip with the former Commissioner to the UK versus U of L basketball game. Also, during the trip in June 2010 to St. Croix, Virgin Islands, the employee's reimbursement included the cost of his and the former Commissioner's dinner on June 21, 2010 for $114 and again on June 26, 2010 for $45, yet the former Commissioner requested $10 for both meals on his travel voucher.

Recommendations

We recommend KDA ensure requests for reimbursement are consistently supported by documentation that shows a necessary business purpose for the expenditure. We also recommend that requested reimbursements that may be questionable not be paid until documentation supporting the necessary business purpose of the expenditure is provided.

Timesheet and Travel Issues

During this examination, numerous interviews with KDA current and former personnel indicated a variety of abuses had occurred involving the false reporting of work hours and the use of state property for personal benefit. The following three findings do not encompass all the issues brought to the attention of the auditors, but represent those issues that could be substantiated through corroborating documentation along with the information provided through interviews. Based on the volume of concerns of KDA staff, there are likely to be more issues than these three findings that resulted in a negative impact on state resources, but documentation to support those concerns could not be located. See Findings 17 through 19 for findings related to timesheet and travel issues.

Finding 17: A former KDA employee received an estimated $70,457 in payments for work and mileage reimbursement where he did not appear to have produced any work product.

A former KDA employee appears to have been paid for work hours claimed that he did not work and reimbursement for mileage he did not incur on behalf of KDA. Based on a review of the former employee's timesheets, travel vouchers, and other documents for the time period of June 2007 through December 2011, it appears the former employee received payment for time claimed at unassigned work locations, when he did not produce required market reports, claiming to perform unknown work from home, and claiming more time than assigned duties required. The review also indicates that the employee received reimbursement for mileage for travel that appears to have either not occurred or was not incurred on the behalf of KDA. In total, the APA calculated that, at a minimum, the former employee was paid for 3,108 work hours and 11,958 travel miles where apparently no known work was produced. Total costs for these payments are estimated at $70,457.

As a non-merit Special Assistant within the Division of Value-Added Animal and Aquaculture Production, the former employee was assigned to act as a stockyard market reporter. The stockyard market reporter job assigned to him involved attending the livestock sales at a specific stockyard in London, Kentucky every Tuesday. As a market reporter, the employee must be trained and certified to place a quality description on the animal species being sold and record the prices of the livestock by their assigned grade. The final results of the sale are supposed to be placed in a market report and submitted for distribution to the public. The former employee was also tasked with assisting the Division of Shows and Fairs when assistance was needed in the staffing of various livestock expositions and the State Fair.

Based on interviews with numerous KDA staff, auditors were informed that there were various concerns with the time reported by this former employee. This resulted in a review of the former employee's timesheets for the period June 1, 2007 through December 31, 2011. All work hours performed are to be reported on these bi-monthly timesheets, which are to be submitted to the employee's supervisor for review and approval. This employee submitted his timesheets to the former Personnel Director to sign because no supervisor would sign them. For most state employees, timesheet information does not include the details of the daily work duties performed and only contains the total hours worked; however, for this former employee, handwritten notes were included with many of the timesheets providing a description of the work duties performed. By comparing this information with the details provided on the employee's travel vouchers, it was possible to produce a schedule of activities for the employee.

An analysis of the timesheet and travel voucher comparison resulted in further discussions with KDA staff that oversee the specific areas of work that were assigned to the former employee. The combination of the data analysis, other documentation, and information provided by supervisory staff resulted in five specific instances being identified that demonstrate the former employee likely received compensation for little or no work performed.

Payment for unassigned work

According to both timesheet information and travel vouchers, the former employee conducted stockyard reporting duties two days per week unless assisting with a fair or show. These documents show the former employee visited the two stockyards located in London, Kentucky. One stockyard was visited on Mondays and the other on Tuesdays; however, according to the KDA staff that supervises the stockyard reporting function of the agency, the former employee was only assigned to the stockyard he visited on Tuesdays. Another KDA employee was assigned to the stockyard visited on Mondays, and the former employee never issued any market reports for that location. As evidence, the KDA supervisor provided the stockyard reports produced by the other employee over a multi-year period. The supervisor was not aware of the former employee ever assisting the employee that was assigned to attend and report for the Monday sale.

Based on the timesheet and travel voucher data for the period June 1, 2007 through December 31, 2011, the former employee charged at least 1,014 hours of work to performing the stockyard reporting duties at the Monday sale he was not assigned to attend. In addition, the former employee was reimbursed for 5,689 miles for travel to the Monday stockyard sales. While certain interviews have indicated that the former employee may have occasionally attended the Monday sales, there is no evidence that he ever conducted any KDA work while there. The total expense for work hours on these days was $21,278, while estimated costs for mileage is $2,503.

No Stockyard Market Reports after October 2008

According to the KDA supervisor over stockyard market reporting, the former employee was assigned to perform stockyard market reporting duties on Tuesdays at only one stockyard, located in London, Kentucky. This assignment continued for the former employee's entire tenure at KDA which ended December 31, 2011. Based on KDA records, the former employee did not submit any stockyard market reports after October 21, 2008; however, he still claimed work hours and mileage reimbursement related to the stockyard work.

In total, no market reports were submitted after October 21, 2008 for 134 days that the former employee claimed work time or mileage at the assigned stockyard. No reports were submitted for an additional 21 days prior to this, dating back to September 4, 2007. This is a total of 1,128 work hours for the 155 days without a work product. In addition, the former employee was reimbursed for a total of 5,862 miles traveling to and from the assigned stockyard on the 155 days. The total expense for the work hours was approximately $23,773, while estimated cost for the mileage reimbursement is $2,579.

Work from home not justified

For the period November 2007 through June 2009, the timesheets for the former employee included handwritten notes describing the work duties he performed. A review of these notes shows that the former employee indicated that he worked from home for 135 full work days. According to KDA supervisors, the work duties assigned to the former employee required minimal time working from home.

The supervisor over the stockyard reporting function stated that market reports for the daily stockyard sales should take no more than one to two hours per report. The former employee was only assigned one stockyard to report from. It is unlikely that the time at home, sometimes as much as three days per week, was spent entirely on the development of reports for this one stockyard. Many of the market reports were not submitted at the beginning of the review period and not at all after October 2008. In addition, the functions performed for the Division of Fairs and Shows by the former employee required that he be at the location of the fair or livestock show and not at his home.

There were 430 work days during the period the handwritten notes were submitted along with the former employee's timesheets. This means that with 135 of those days spent at home, the former employee spent nearly one-third of his time during that period producing no known work product. The total amount paid for the 966 work hours spent at home cost KDA approximately $20,117.

While a certain amount of work hours would be expected for administrative duties, emails, and other communications, these duties should be minimal compared to an employee's primary duties. It is unexpected that such an extensive amount of work time would be used for these tasks. At this time, no significant KDA-related work can be associated with the extensive hours the employee claimed to have worked from home.

It is also difficult to calculate how many hours were spent working from home during the rest of the former employee's tenure at KDA, due to a lack of specific duties performed during other time periods. Based on the pattern of the employee's schedule, these days would have occurred when the employee was not at the stockyard or assisting with a fair or show. This would indicate that there were many other additional days spent working from home.

Mileage reimbursement received during leave

A comparison of the former employee's timesheets and travel vouchers indicates that reimbursement for mileage claimed to be related to work duties was paid by KDA on days that the employee took leave. The travel was claimed to have been related primarily to stockyard travel and matches the routine mileage the former employee would have typically received traveling from his home in Manchester to the London stockyard.

During the period September 2007 through May 2011, KDA paid for 11 days of travel, totaling 407 miles. The total cost of this mileage reimbursement is estimated to be $207. Due to the former employee's timesheets reflecting that he claimed to be on leave during these times, this mileage should not have been approved or reimbursed.

Work hours do not match stockyard operation hours

A further comparison of the former employee's timesheets and travel vouchers also indicates that the employee claimed work time at his assigned stockyard beyond the actual operational hours of the stockyard. While KDA employee timesheets do not include a beginning and ending time for hours worked, travel vouchers do include a beginning and ending travel time. Using this time, it is possible to determine when an employee considered their work time to begin and end.

The following table contains the beginning and ending travel times typically reported by the former employee when he traveled to his assigned stockyard, reconciled to the work hours typically reported on the days with those travel times. For comparison, the operational hours of the assigned stockyard were 1:00 pm – 5:30 pm.

Table 8: Former Employee Beginning and Ending Travel Times with Corresponding Work Hours

Time Period	Typical Hours Claimed	Travel Begin	Travel End
June 2007 – October 2007	7.5	11:00am	6:30pm
November 2007 – May 2008	10	9:00am	9:00pm
*November 2008 – November 2011	7.5	8:00am	4:30pm

Source: Auditor of Public Accounts based on timesheets and travel vouchers of former Kentucky Department of Agriculture employee.

* The period of June 2008 through October 2008 is not included due to no available travel vouchers for the employee during that time period.

As illustrated by the table, the beginning and ending travel times do not match what would be expected for most of the period under review. According to the stockyard supervisor at KDA, market reporters should typically report for duty at the stockyard 30 minutes prior to the beginning of the sale. The resulting market report should then take one to two hours to prepare and submit for public distribution.

Based on this information, the travel times of 9:00 am to 9:00 pm and 8:00 am to 4:30 pm that were used for the majority of the reviewed period do not accurately reflect the hours that should have been worked at the assigned stockyard. Instead, they appear to only reflect the necessary hours the former employee was required to work based on his schedule at the time. The 10 hour days reflect the period when the former employee was working a flex schedule, with the 7.5 hour days reflecting his change to a regular work schedule.

No calculation was made of the work hours that the former employee may not have been performing work due to the variable nature of performing the work and actual operational times of the stockyards. It is possible that sales could last past the typical closing time and change the time requirements for the employee. In addition, days where no market report was produced have already been captured and included in a separate section of this finding.

Conclusion

The analysis completed by the APA of the time and travel of the former employee demonstrates that, at a minimum, he was paid an estimated $70,457 for time he likely did not perform any work for KDA, and was reimbursed mileage for travel that was either not associated with KDA duties or not actually incurred. The total accumulation of payments associated with work reportedly performed does not include additional time that the former employee likely did not perform work, but could not be accurately captured and included in the final calculation. Based on the patterns observed in the data analysis and interviews with KDA staff, it is suspected that a far greater amount was paid by KDA for time that the former employee did not perform work. The following table summarizes all estimated amounts that could be reasonably calculated.

Table 9: Estimated Cost of Time and Travel With No work product by Former Employee

Issue	Work Hours	Mileage	Cost of Work Hours	Cost of Mileage*
Unassigned Work	1,014	5,689	$21,278	$2,503
No Daily Market Reports	1,129	5,862	23,773	2,579
At Home	966		20,117	
Mileage on Leave Time		407		207
Total	3,109	11,958	$65,168	$5,289

Source: Auditor of Public Accounts based on analysis of employee timesheets, salary information, and mileage reimbursement rates.

*Based on an average reimbursement rate of $0.44 per mile over the last four years.

The lack of a work product from this former employee and the resulting extensive costs calculated in this finding are a direct result of poor management practices coinciding with apparent favoritism and conflicts of interest. Specifically, the former employee was never assigned a sufficient amount of duties to equate to a full work schedule. Stockyard market reporting one day per week and working fairs and shows on an as-needed basis would not have provided the former employee with a significant work load. Based on interviews with KDA staff, this was likely because the former employee was known to have poor work performance for the few job tasks that he had been assigned.

Discussions with the supervisor of the stockyard reporting program have revealed that he refused to sign the former employee’s timesheet because of a lack of work product. Instead, timesheets for the former employee were signed by the former Personnel Director. This led the stockyard reporting supervisor and his executive director to consider the oversight to come from a higher level, though the Personnel Director position would have no knowledge of the actual activities of an employee that works in the field. This is discussed further in Finding 24.

Even though the former Personnel Director was aware of the general concerns with the former employee and expressed those concerns herself, salary payments continued to be processed even when timesheets were not available. Interviews have revealed that this was likely because the former employee was commonly known to be hometown friends with the former Commissioner and no other staff felt they could act to address the situation. Making it increasingly difficult to act, the former employee’s brother was his supervisor for his shows and fairs work assignment. This creates a clear conflict of interest.

As the former employee's supervisor, the brother oversaw all work duties at the fairs and shows. While he did not sign the former employee's timesheets, he did sign travel vouchers, including those specifically for travel to the stockyards that should have been under the oversight of a separate supervisor. Such a situation should not have been allowed to occur, and it demonstrates the disjointed management situation, which was overshadowed by the inherent conflicts of a family relationship in the supervisory chain of command.

The activity identified regarding the former employee may violate two separate statutes due to the potential for false claims of work hours and mileage. State personnel law under KRS 18A.145(4) states that

> No person shall make any false statement, record, or report regarding hours, days, or other time worked by any employee. No person shall falsely prepare any payroll document or record relating to the pay for any employee.

Under KRS 11A.020(1)(d), the Executive Branch Code of Ethics further states that no public servant shall knowingly

> Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

Recommendations

We recommend KDA ensure all employees are properly assigned sufficient duties to create a full work schedule.

We recommend all field staff, regardless of merit status, be assigned a direct supervisor that has the opportunity and capacity to attest that work duties are being completed and a final work product submitted when required. The field staff supervisors should be responsible for signing the employees' timesheets and travel vouchers. For those employees whose work time is segregated between various supervisors, all supervisors should sign timesheets and travel vouchers or otherwise document communication to a primary supervisor that the employee's work can be confirmed.

KDA should avoid a conflict of interest by not allowing one immediate family member to supervise another. Immediate family members should not be allowed to sign the timesheets or travel vouchers of another family member.

We also recommend KDA seek the assistance of the Executive Branch Ethics Commission to provide training to all KDA employees on the requirements of the Executive Branch Code of Ethics.

Finding 18: No significant work can be confirmed for a non-merit employee who had a personal relationship with the former Commissioner.

At the direction of the former Commissioner of Agriculture, a non-merit Staff Assistant with whom he had a prior personal relationship was hired and started employment on October 31, 2011 at a salary of $5,000 per month. According to interviews with KDA staff, the daily duties of the new Staff Assistant were not known and they rarely saw her at the KDA offices performing any work. Employees interviewed stated they seldom saw the new Staff Assistant in the office on work days, though two employees stated they witnessed her at the former Commissioner's home on at least two work days. While the Staff Assistant did take leave without pay for a total of 29.5 hours during her tenure at KDA, it does not appear to account for the significant amount of time staff members have stated she was missing from the office.

While the APA was not able to interview the former Commissioner, media reports concerning the hiring of the new Staff Assistant indicate the former Commissioner stated the position was to assist him with administrative duties and answering phones. The APA interviewed numerous executive staff that worked in the area of the former Commissioner's office or were frequently present in the office area on a routine basis. This includes the former General Counsel/Chief of Staff who was initially assigned the duty of signing the Staff Assistant's timesheets. According to these staff members, the new Staff Assistant did perform some administrative duties, such as answering phones, at the beginning of her tenure with KDA. Employees stated that the Staff Assistant was seen in the KDA offices less often as time progressed and were unaware of her responsibilities or the duties she was to perform.

According to the former General Counsel/Chief of Staff, he eventually refused to sign the Staff Assistant's timesheets due to his inability to personally attest to the work being performed by her since she seldom reported to the office for work. Timesheet records indicate he signed both the October 15 through 31 and November 1 through 15 time periods, while the former Commissioner signed the timesheets for the next two pay periods. Records do show that the former General Counsel/Chief of Staff signed the December 16 through 31 timesheet at the end of the former Commissioner's term. It is not clear why he chose to sign this final timesheet based on the concerns that he had expressed. There was no supervisor signature for the final January timesheet before the Staff Assistant's termination of employment effective January 2, 2012.

Two KDA staff stated they witnessed the Staff Assistant at the former Commissioner's home during regular work hours on at least two different occasions. One staff member who saw the Staff Assistant at the former Commissioner's home in the morning and again in the afternoon stated he was told by the former Commissioner that the Staff Assistant had been making phone calls for him on one of the occasions. The other staff member stated that on a separate occasion he witnessed her performing personal domestic duties for the former Commissioner, such as cleaning the home and cooking.

Based on the information provided by KDA staff, it appears the Staff Assistant hired by the former Commissioner did not provide a significant amount of work to benefit KDA. There was no supervisory accountability to ensure work was being conducted except for the oversight of the former Commissioner, with whom the Staff Assistant had a personal relationship. Further, an appearance exists that the Staff Assistant was hired solely based on that personal relationship with the former Commissioner, and was allowed to be paid with state funds while not working or while performing personal work for the former Commissioner.

While the hiring of non-merit staff is at the discretion of agency leadership, all employees regardless of merit status must provide a work benefit in exchange for the state funds they are paid. It is a misuse of state funds for state employees to perform duties that only benefit an individual personally or that are not relevant to the mission of the agency. It is the agency's responsibility to ensure all employees are accountable for the completion of their assigned duties and that they contribute to the work product of the agency. In the case of this Staff Assistant, only the former Commissioner could hold her accountable and he had a conflict of interest in that oversight role.

Recommendations

We recommend that KDA ensure all employees are accountable to perform their assigned duties and that those duties benefit the public through the mission of the agency. Supervisors should have direct knowledge and oversight of the employees' activities before signing timesheets. If a conflict of interest arises due to close personal relationships between the supervisor and employee, a separate supervisor should be assigned to sign the timesheet that will also have direct knowledge of the employee's activities.

Finding 19: A KDA Amusement Safety Inspector Supervisor appears to have received pay and the use of a state vehicle when no KDA-related work was performed.

Between June 10, 2011 and June 26, 2011, a GPS tracking unit was attached to a KDA vehicle issued to an Amusement Safety Inspector Supervisor (Ride Inspector). A comparison of the reports generated from the GPS device, the employee's timesheets, and the employee's submitted ride inspection forms indicates that the employee was paid for work days when no inspections were performed. The comparison also indicates that the employee charged more work hours than should have been required for the days that inspections were performed. Finally, the GPS report shows that the KDA-issued vehicle was used on days that the employee did not report any work hours, indicating that the vehicle was used for personal use. Only seventeen days of this employee's activity could be reviewed due to the GPS unit failing, which, according to certain KDA employees interviewed, may have been due to intentional tampering with the unit.

It is a ride inspector's duty to inspect all items classified by KRS 247.232(1)(a) as amusement rides, which generally includes,

1. Any mechanized device or combination of devices which carry passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement; or

2. Any building or structure around, over, or through which people may walk, climb, slide, jump, or move that provides amusement, pleasure, thrills, or excitement.

All amusement ride inspectors should receive inspection itineraries from KDA central office staff, which provide the field ride inspectors with a list of those rides that are scheduled to be inspected in their assigned geographic location. Ride inspectors may also perform inspections on an as-needed basis, depending on the needs in other geographic areas, or if unexpected rides enter the state that are required to be inspected before they can be operated. Inspection reports are completed by the ride inspectors at the time of inspection, and signed by the owner of the amusement rides. These reports are then sent to the KDA central office for filing.

Due to the extensive travel requirements for the ride inspector positions, KDA has elected to assign state-owned vehicles to all field inspectors for the purpose of commuting from their homes to the inspection sites. In June 2011, KDA began installing GPS tracking units in 25 KDA-owned vehicles. The information collected by the GPS units is transmitted to a vendor that contracted with KDA, which information is then uploaded by the vendor into a database accessible to certain KDA managers, who are able to generate activity reports of each vehicle equipped with a GPS.

During the examination of KDA, auditors were notified of concerns with employee-claimed work hours and state vehicle use, including one specific Ride Inspector. A comparison of the GPS report, generated from the vehicle assigned to the ride inspector, to his timesheets and submitted inspection reports, resulted in three specific issues being identified. All conclusions are based on a GPS report for the period from June 10, 2011 through June 26, 2011, because that is the only time period the GPS was active during the APA examination period, before the unit failed and ceased reporting information. The conditions under which the unit failed are also questionable and are considered another issue identified with this ride inspector.

Work Hours Reported with No inspection Reports

Analysis of the ride inspector's submitted inspection reports show that he did not submit any reports for four days of the seventeen day period under review, but he still reported work hours for those four days. In total, the ride inspector claimed 21 hours of work over those four days with a total cost of $357.64 in wages. In addition, the ride inspector used the KDA-owned vehicle assigned to him to travel 86.1 total miles. The following table illustrates the totals for each of the four days on which no report was filed.

Table 10: Work Hours Reported with No Work Product

Date	Work Hours Reported	Miles Driven	Cost of Work Hours*
6/13/2011	4.5	9.7	$76.64
6/17/2011	6	76.4	102.18
6/20/2011	4.5	0	76.64
6/25/2011	6	0	102.18
Total	**21**	**86.1**	**$357.64**

Source: Auditor of Public Accounts based on Kentucky Department of Agriculture timesheets, salary information, and GPS report data
*Calculated based on the ride inspector's hourly rate of $17.03.

Considering the primary duty of a ride inspector is to conduct amusement ride inspections, it is expected that the employee would submit the resulting inspection reports to demonstrate that actual KDA-related work was performed. Without these documents, it appears the wages paid to the ride inspector for these four days were paid for hours not related to his assigned KDA work duties. The mileage incurred during these four days should also likely be considered personal in nature, since they cannot be associated with the ride inspector's official duties.

No Work Hours with Use of State Vehicle

Analysis of the GPS report from the ride inspector's assigned vehicle and corresponding timesheets revealed that on June 18 and 19, 2011, the vehicle was driven with no reported work hours for those two days. This indicates that the state-owned vehicle was used for personal use on those two days. Total miles for June 18, 2011 were 4.8, while June 19, 2011 incurred only .2 miles. While this mileage appears insignificant, combined with the other issues identified here, it contributes to the broader perception that the employee appears to have a disregard for the proper use of a state vehicle. These two days represent only those within the available seventeen day GPS reporting period. It is possible that similar personal use has occurred at other times, which would accumulate much higher mileage over time.

Excessive Work Hours and Mileage For Amount of Work Product

For six of the days within the seventeen day period under review, an analysis of documents indicate that an inspection report was completed by the ride inspector for each of the days, but the total work hours claimed and mileage incurred on the state vehicle appear to be excessive for the work produced. For the six days with questionable time and travel, the following table is a summary of the work hours claimed, travel time, stopped locations, and the number and location of inspections.

Table 11: Work Hours and Mileage that Exceed Time for Work Produced

Date	Work Hours	Travel Time	Stopped Locations (Number of Stops)*	Inspections Produced (Location)
6/14/2011	6.50	7.78hrs	London(x3) to Williamsburg to London(x5)	2 (Williamsburg)**
6/15/2011	10.00	10.28hrs	London to Williamsburg to Manchester(x4) to London	4 Inspections (Manchester, 1 location)
6/16/2011	10.50	10.68hrs	London(x2) to Lexington to Wilmore to Winchester to Richmond(x2) to London	2 (Winchester)
6/21/2011	9.00	6.83hrs	London to Somerset(x4) to London(x5)	2 (London, 1 location)
6/22/2011	10.00	8.95hrs	London to Hyden(x4) to Hazard to London (x7)	1 (Hazard) 1 (London)
6/23/2011	8.00	4.02hrs	London to Manchester(x4) to London(x4)	1 (Manchester)

Source: Auditor of Public Accounts based on Kentucky Department of Agriculture timesheets and GPS report data.
* Stops calculated based on number of times the ignition was reported turned off. Multiple stops in one city noted in parenthesis.
**Includes one inspection and one issued stop order.

As seen in Table 11, the ride inspector stopped in many different cities, some multiple times, but the numbers of inspections per day were typically limited to two locations at a maximum. Many of these cities visited are not in the general location of the inspection sites. The table further shows that, for three of the questioned days, the amount of travel time reported by the GPS unit is significantly less than the work hours reported by the ride inspector. A more in-depth review of each of the six days provides a greater insight into what appears to be a purposeful and significant abuse of state resources.

On June 14, 2011, the ride inspector claimed six and one-half work hours for an inspection report and stop order issued at two locations in Williamsburg, Ky. GPS reports indicate that it took the ride inspector two hours to travel from his home workstation in London, Kentucky to Williamsburg, Kentucky, a distance of approximately 34 miles. The excessive travel time is due to the multiple stops made in London before the ride inspector reached the inspection site. The travel time for the return trip back to London only took the ride inspector 32 minutes. Since this is a more realistic travel time, the ride inspector should have only reported approximately an hour of travel time for the entire inspection. Combining the true travel time of approximately 32 minutes to and from the location with the two hours it appears to have taken for the inspection process, total reportable work time for the day should have been approximately three hours.

On June 15, 2011, the ride inspector claimed ten work hours for producing four inspections from one single location in Manchester, Kentucky. While travel time for the day appears to support the hours claimed, it does not reveal that it took the ride inspector from 5:48 am to 12:50 pm to drive the estimated 22 miles from London to Manchester. The excessive amount of time is due to a trip the ride inspector made to Williamsburg. There is no documentation showing that a ride inspection was either scheduled or conducted at that location on this particular day. The trip back to London took the ride inspector approximately 35 minutes, and appears to be the legitimate travel time. Combining the true travel time of 35 minutes each way with the approximately one hour it appears to have taken for the inspection, total reportable work time for the day should have been approximately two and one-quarter hours.

On June 16, 2011, the ride inspector claimed ten and one- half work hours for two inspections in Winchester, Kentucky. While GPS reported travel time appears to support the work hours, it does not reveal that the ride inspector spent two and one quarter hours driving to Manchester without ever stopping there, then driving by way of Lexington to Wilmore, Kentucky to stop for six minutes, then finally driving to Winchester where the inspection was apparently completed in 17 minutes. Further, stops in Richmond were made before the ride inspector returned to London. See Exhibit 10 for a visual presentation of the route driven by this employee. Based on the approximate distance from London to Winchester, estimated driving time should have been approximately one and one-half hours each way. Combining a total travel time of three hours with the 17 minute inspection process, total reportable work time for the day should have been approximately three and one-quarter hours.

On June 21, 2011, the ride inspector claimed nine work hours for two inspections at one location in London, despite the GPS reports indicating slightly less than seven hours of travel time. Prior to traveling to the inspection location, the ride inspector drove to Somerset and made four stops for an unknown purpose. The inspection location is approximately ten miles from the ride inspector's home workstation and should have taken about 20 minutes maximum each way. Combining a total travel time of 40 minutes with the 18 minute inspection of the water slides at Levi Jackson State Park, total reportable work time for the day should have been approximately one hour.

On June 22, 2011, the ride inspector claimed 10 work hours for completing one inspection in Hazard, Kentucky, and one inspection in London. Actual travel time reported by the GPS was slightly less than nine hours. The report also indicates that the ride inspector made several stops on the way to the Hazard inspection site, taking approximately three and one-quarter hours to make the trip. The return trip to the inspection site in London took approximately one and one-half hours. After making multiple stops in London, the ride inspector returned to his home workstation. Combining the true travel time for each inspection site with the one hour inspection process in Hazard and 13 minute inspection in London, total reportable work time for the day should have been no more than five hours.

On June 23, 2011, the ride inspector claimed eight work hours for completing one inspection in Manchester, despite the GPS report showing that actual travel time was approximately four hours. The ride inspector made multiple stops in both Manchester and London, with the likely stop for the Manchester inspection taking 30 minutes. It also appears one stop was also made at a previous inspection location, which could indicate a follow-up visit. Combing the time it took to perform the inspections with the time it should take to drive from the ride inspector's home workstation to Manchester, the maximum reportable work hours for the day should have been approximately two hours.

For the six days identified as having an excessive amount of work hours and travel time for the amount of work product produced, the following table summarizes the total estimated hours that should have likely been reported as 16.5 hours. The table also includes an estimated cost of those hours that do not appear to have been related to KDA work, and therefore should not have been reported, based on documentation of the ride inspector's work product. The total cost of these hours is estimated at $638.63 for the six days in question.

Table 12: Summary of Estimated Reportable Work Hours and Cost of Non-Reportable Work Hours

Date	Reported Work Hours	Estimated Reportable Work Hours	Non-Reportable Work Hours	Cost of Non-Reportable Work Hours*
6/14/2011	6.50	3	3.5	$59.61
6/15/2011	10.00	2.25	7.75	131.98
6/16/2011	10.50	3.25	7.25	123.47
6/21/2011	9.00	1	8	136.24
6/22/2011	10.00	5	5	85.15
6/23/2011	8.00	2	6	102.18
Total	**54**	**16.5**	**37.5**	**$638.63**

Source: Auditor of Public Accounts calculations based on employee timesheets, inspection reports, and GPS vehicle usage reports.
*Calculated based on the ride inspector's hourly rate of $17.03.

Possible Tampering with GPS Device

As previously stated, the period under review for the ride inspector only encompassed a seventeen day period in which the GPS device attached to his KDA issued vehicle was active. The vehicle with the GPS was received by the ride inspector on June 10, 2011, but the unit stopped functioning on June 26, 2011. According to the KDA Administrative Branch Manager, who oversees and maintains the KDA vehicle fleet, inspection of the GPS device indicated that a fuse had potentially been tampered with in order for it to stop functioning.

The Administrative Branch Manager also indicated that the ride inspector was allowed by the Executive Director of the Office of Consumer and Environmental Protection to receive another vehicle that did not have a GPS device attached. For 12 of the 17 days the GPS device was active, the work hours and mileage driven in a KDA vehicle are questionable. Three of the remaining days had no reported work hours or travel time. This means work hours and travel were not questioned for only one day of the seventeen day period under review. Had a functioning GPS device remained on the ride inspector's vehicle, a much larger amount of misuse may have been captured and disclosed.

Conclusion

In total, the analysis of the 17 day period under review identified an estimated 58.5 questionable work hours claimed, as identified in Tables 10 and 12, where it does not appear the ride inspector produced any KDA-related work product. The questionable hours have a total estimated cost of $996.27. In addition, the analysis identified at least 91.1 miles in which a KDA-issued state vehicle was apparently used for a purpose not related to KDA work duties. The vehicle was also driven numerous other miles for apparently unrelated KDA purposes, though due to the nature of the mixed travel, an accurate calculation of the total is difficult.

The lack of work product from this employee, and the potential personal use the assigned state vehicle, are an apparent result of the ride inspector's obvious disregard for his responsibilities to accurately report work hours and properly use state resources. This appears to have gone unresolved by management in the past, due, in part, to the difficult nature of overseeing every aspect of a field employee's work activities without such assistance as the GPS devices. In addition, interviews have indicated that due to a family relationship between the former Commissioner and the ride inspector, there appears to have been favoritism that allowed the employee's actions to go unpunished.

Prior to the current GPS tracking program, KDA performed the trial use of another GPS product that was installed on a limited number of vehicles. During that trial, the employment of two employees was terminated due to the results of the GPS report data. Interviews indicated that the former Personnel Director was also suspicious of the ride inspector's work activity, so when the current GPS system was purchased, she requested a GPS unit be installed on his vehicle. According to the Administrative Branch Manager who oversees the KDA fleet, he produced a GPS report of the ride inspector's travel activity, but was told by the Executive Director of the Office of Consumer and Environmental Protection not to share the reports with anyone. This is the same Executive Director that also let the ride inspector have a new vehicle without a GPS device after the device failed. According to interviews, such favoritism was due to the ride inspector being a cousin of the former Commissioner's former spouse.

The activity identified regarding the ride inspector may violate two separate statutes due to the potential for false claims of work hours and the use of a state vehicle for personal use. State personnel law under KRS 18A.145(4) states that

> No person shall make any false statement, record, or report regarding hours, days, or other time worked by any employee. No person shall falsely prepare any payroll document or record relating to the pay for any employee.

Under KRS 11A.020(1)(d), the Executive Branch Code of Ethics further states that no public servant shall knowingly

> Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

Recommendations

We recommend that KDA ensure that all information indicating that an employee is not properly executing their assigned duties be properly reported to all appropriate supervisors in a timely manner. We recommend the information be acted upon in a manner commensurate with the determined violation or infraction of state personnel law regardless of the relationship an employee may have with a supervisor or agency official.

We also recommend KDA seek the assistance of the Executive Branch Ethics Commission to provide training to all KDA employees on the requirements of the Executive Branch Code of Ethics.

KDA Personnel Findings

During this examination, auditors received multiple concerns from KDA employees and management related to personnel matters under the previous KDA administration. These concerns included reported pre-selection of candidates, favoritism, retaliation, and indirect lines of supervision and reporting. Auditors were able to substantiate a number of personnel issues as described in Findings 20 through 26.

Finding 20: KDA appears to have preselected candidates for merit employment.

Auditors found evidence indicating the former KDA administration preselected candidates for appointments into KDA merit positions. This activity reportedly occurred at the direction of the former Commissioner who had the final appointing authority at KDA.

KDA completed a process to hire merit candidates, including creating an interview panel and establishing predetermined interview questions. The candidate recommended by the interview panel, however, would not be the candidate appointed by the former Commissioner for the position. In some instances, the appointed candidate would be the second or third candidate recommended by the interview panel, while in at least one instance the candidate appointed by the former Commissioner was not one of the top candidates recommended by the interview panel for the position.

According to the former Personnel Director, at times, the interview panels were aware, prior to conducting the interviews, of the candidate that was going to be appointed, and as a result, the interview panel would recommend that individual for the position. In other instances, the interview panel members would not be aware of the favored candidate and would make their recommendations after completing the interview process only to have the former Commissioner, who was not present in the interviews, select a person that was not the recommended candidate.

Below are a few examples of employment candidates that appear to have been preselected for positions at KDA:

Assistant Director - Division of Food Distribution

In March 2010, KDA conducted interviews to fill an internal mobility position in its Division of Food Distribution. According to the former Personnel Director, there were several strong candidates for the position; however, the former Commissioner called the former Personnel Director and wanted to have a particular employee promoted into the position. The former Personnel Director stated that she understood from the former Commissioner that he wanted this employee to receive the promotion as it would provide the employee with a higher salary. The former Personnel Director stated that she was told by the former Commissioner to prepare the preselected candidate for the interview.

During an interview with the individual who received the promotion to the Assistant Director position on April 1, 2010, the employee told the auditors that he questioned his own hiring as an Assistant Director. The employee stated that he was called by the former Personnel Director a day or so before the interview was scheduled and was asked to meet with her. During that meeting, he stated he was told how he should dress and what questions he should anticipate answering. The former Personnel Director acknowledged the meeting with the employee and stated that she did not meet with any other candidates for this position prior to the interviews.

Agriculture Inspector I – Division of Regulation and Inspection

On May 1, 2006, KDA hired a new Agriculture Inspector within the Office of the State Veterinarian. The employee hired into this position continued his employment at KDA until March 25, 2011. According to his personnel file, the employee was officially reprimanded on January 5, 2011 for tardiness and problems with attendance in reporting to assigned work locations.

According to the former Personnel Director and other KDA management, this employee continued to have problems with reporting to work and ultimately was asked to resign or be fired. The employee chose to resign.

In September of 2011, KDA posted a position for an Agriculture Inspector in the Division of Regulation and Inspection. The posting for the position closed on September 23, 2011.

According to the former Personnel Director and the current Deputy Agriculture Commissioner, who served as the Director of Outreach and Development at that time, the father of the former Agriculture Inspector contacted the former Commissioner to ask that his son be rehired at KDA. The father of the former Agriculture Inspector works at an insurance agency and is reportedly friends with the former Commissioner.

According to the Deputy Agriculture Commissioner, the father contacted him around the end of the summer in 2011 to ask whether KDA could give his son a second chance. The Deputy Agriculture Commissioner directed the father to speak with the former Commissioner and then notified the former Commissioner of his conversation with the father. Subsequent to this conversation, the Deputy Agriculture Commissioner stated that the former Commissioner notified him that he had decided to give the former employee another chance.

The former Executive Director of Regulation and Inspection, the Office under which the new Agriculture Inspector position was hired, stated that he had no involvement in the rehiring of this individual. He stated that his only involvement was receiving the register for the position and identifying the candidates he knew had contacted someone at KDA expressing interest in the position. He also identified veteran candidates to be considered during the process.

The former Executive Director stated that he saw the father of the former employee at a fundraising event for the current KDA Commissioner in Winchester, Kentucky. The father approached him and stated that his son was getting ready to come back to work for him. The former Executive Director believes this meeting occurred on August 9, 2011, over a month before the position was posted and several months before the position was filled.

In this case, the interview panel was not made aware of the administration's intent to select this specific candidate. According to the interview documents maintained by KDA, the interviewers' notes show that they identified discrepancies between the individual's application and actual work history. The updated application that the candidate filed with the Personnel Cabinet did not include the time the employee worked at KDA. In addition, the interview documents indicated that the appointed candidate was not in the top 3 candidates recommended by the interview panel to the former Commissioner. Though not one of the top three candidates recommended by the interview panel, the candidate was appointed to this position on November 16, 2011.

Store Worker II – Division of Food Distribution

On November 16, 2011, KDA hired a new Store Worker within the Division of Food Distribution, Commodity Supplement Food Program. The candidate appointed to this position was the roommate of the former Commissioner's reported girlfriend.

According to the former Personnel Director, she and the former KDA Director of OSPA discussed what they believed was about to happen when filling the Store Worker II position after they looked at the candidate's application and saw her residential address. The former Personnel Director stated that she had just processed the paperwork for the hiring of the former Commissioner's reported girlfriend into a non-merit position so she quickly recognized the address as being the same as the new applicant.

The former Personnel Director stated that the former KDA Director of OSPA had contacted her several times, on behalf of the former Commissioner, requesting she quickly start the interview process associated with the Store Worker II position. While the former Personnel Director stated that the employee was a good fit for the job and appears to work hard, the process to fill the position was not handled appropriately.

To schedule an interview with a candidate for a job, state agencies are required to wait until the Personnel Cabinet completes a Minimum Qualifications Review (MQR) that informs the agency which candidates, of those the agency has expressed interest in interviewing, actually qualify for the position and are eligible to be interviewed by the agency. The Personnel Cabinet's September 2009 newsletter reminded agency personnel contacts of this fact by stating, "Candidates shall not be offered an interview prior to Approved MQ."

Out of 44 applicants on the register for the Stores Worker II position, KDA requested a MQR to be performed for nine candidates. According to the former Personnel Director, instead of waiting for the Personnel Cabinet to complete the MQR, KDA proceeded to schedule four interviews. As a result, KDA scheduled interviews with one candidate who was not approved through the Personnel Cabinet's MQR process, one candidate whose MQR was inconclusive, and two candidates that were approved by Personnel to be interviewed. One of the two candidates approved to be interviewed through the MQR process later declined an interview for the position.

According to instructions provided by the Personnel Cabinet to agencies each time a position is posted, "[a]gency shall not consider this candidate", if the candidate's status is rejected or inconclusive. KDA not only scheduled interviews with these candidates, but they also interviewed a candidate that was rejected through the MQR process and a candidate whose MQR results were inconclusive. Ultimately, KDA only interviewed one approved candidate, the one that was ultimately appointed to the position.

Agriculture Inspector I/Amusement Safety Inspector Supervisor

On March 16, 2007, KDA hired a cousin of the former spouse of the former Commissioner as an Agriculture Inspector I. According to the former Personnel Director, the former Commissioner wanted to hire this candidate at KDA to help the candidate out.

Just over three months later, the newly hired Agriculture Inspector resigned his position, stating in a resignation letter that he was resigning his position as an Agriculture Inspector I "effective June 30, 2007 to be appointed Amusement Safety Inspector Supervisor effective July 1, 2007." According to the former Personnel Director, this position was created specifically for the individual, again, because the former Commissioner had wanted to help the individual. For additional information related to this employee, see Finding 19.

Agriculture Inspector I - Knox and Rockcastle County

In the fall of 2011, KDA posted two positions for an Agriculture Inspector I for the Division of Regulation and Inspection, one position in Knox County and the other position was located in Rockcastle County. Registers maintained by KDA document that certain individuals placed their names on both registers. In a review of the candidate interview documentation maintained by KDA for these positions, it appears KDA performed one interview for both positions as references were made between the separate KDA interview files.

After conducting interviews, the interview panel's top selections for both positions were documented in writing. The candidate appointed to the Knox County position was the interview panel's second choice. The interview panel's first choice received a letter on October 6, 2011, using standard agency language stating "we have offered the position to another applicant who has the best combination of knowledge and experience for our particular needs."

The candidate appointed to the Rockcastle County position was not actually one of the top three candidates recommended for the position in Rockcastle County, but was the third candidate selected by the interview panel for the Knox County position. All three candidates recommended by the interview panel for the Rockcastle County position received the same letter stating that KDA had offered the position to someone else, "who has the best combination of knowledge and experience for our particular needs."

The interview panel for these two positions consisted of two supervisors from the Division of Regulation and Inspection and the division's Director. Given the daily responsibilities of the interview panel members, it appears they would have the most knowledge and experience in determining the best candidate for those positions and not the former Commissioner.

Assistant Directors

On September 27, 2010, KDA submitted requests to the Personnel Cabinet to establish two Assistant Director positions, one within its Division of Personnel and Budget, and another within its Division of Information Technology (IT). On December 27, 2010, KDA appointed the KDA's Personnel Director and IT Director, both non-merit personnel, into the merit Assistant Director positions. By this action, KDA allowed two of its employees to "burrow" into the state merit system.

According to the former Personnel Director, the decision to take this action for both employees was made by the former Commissioner. She stated that the former Commissioner expressed interest in doing something for the two employees and that after discussing potential options, the decision was made to create the two merit Assistant Director positions and to fill the positions with the two non-merit Directors. In both instances, though other candidates were interviewed, the individuals were appointed without being interviewed for their respective positions.

Through this action, the IT Director received a slight increase in pay and the security of a merit position. The former Personnel Director received a reduction in pay, but stated that she was okay with the pay reduction acknowledging that it was to her benefit to be in a merit position.

Because the hiring process that was followed to fill these two Assistant Director positions raised several concerns, the issue was brought before both the State Personnel Board (Board) and Executive Branch Ethics Commission for review.

The Personnel Board's investigative report concluded that the selection process used by KDA was "totally arbitrary." The Board investigator, in his report to the Board, concluded that KDA did not follow various portions of KRS Chapter 18A, including 18A.145, due to false statements made by KDA. In January 2012, the former Personnel Director was fined $1,500 by the Executive Branch Ethics Commission as part of a settlement agreement in which she acknowledged violating state ethics laws.

As is documented throughout this finding, KDA did not only fail to follow an appropriate process to hire a merit employee, but certain instances clearly violated state statute.

Recommendations

We recommend that KDA contact the State Personnel Cabinet to determine what training opportunities exist related to the best practices for hiring state employees. We recommend KDA ensure staff involved in the personnel process, including those involved in the interview and hiring process, receive adequate training to ensure their knowledge of proper personnel processes.

We recommend KDA interview panel members document in writing their recommended candidate, and that this documentation be filed and maintained in the individual interview files.

We recommend the appointing authority give serious consideration to the recommendations made by the interview panels. We further recommend that if the appointing authority chooses a candidate other than those recommended by the interview panel, that the appointing authority consider discussing the matter further with the interview panel members and document the decision in writing with an explanation to accompany the final decision.

Finding 21: The former KDA administration issued monetary awards, and at least one reclassification, without a recommendation from employees' supervisors.

While conducting interviews, auditors received multiple concerns regarding KDA awarding Adjustment for Continuing Excellence (ACE) awards and job reclassifications during the administration of the former Commissioner. Most frequently, individuals expressed concern regarding 11 ACE awards issued in fiscal year 2011. According to former KDA management, the former KDA Commissioner, in certain instances, determined which employees received ACE awards or job reclassifications. Auditors were informed that the determinations were made without input from employees' supervisors, and that the former Personnel Director would then create a justification to support the action.

According to the KDA Human Resource Branch Manager, she was not aware of the process followed by KDA to determine ACE awards or job reclassifications for employees. She stated that she would only receive from the former Personnel Director a list of ACE award recipients, personnel actions to be taken, and the amounts to be awarded to the employees. In addition to this information, the Human Resource Branch Manager would receive a letter or memo signed by the former KDA Commissioner addressed to the Personnel Cabinet justifying the award.

In discussing this process with the former Personnel Director, she stated no formal process existed to initiate an ACE award or job reclassification. She noted that she would sometimes receive memos from KDA Executive Directors requesting a reclassification or ACE award for specific candidates and would take the memos to the former Commissioner for his consideration. She noted that the former Commissioner would develop his own list of job reclassification or award recipients. Auditors received similar statements from other executive management during the previous administration, including the former Executive Director of the Office of Consumer and Environmental Protection, who noted that he might have mentioned some individuals for consideration for an award, promotion or reclassification but that the former Commissioner told him he would decide who was hired, fired or promoted.

The former Personnel Director stated during an interview that the most notable instance of the former Commissioner making an independent determination as to who would receive an award occurred in the fall of 2010 when 11 KDA employees were provided ACE awards. According to the former Director, she was asked by the former Commissioner to provide to him a list of all KDA merit personnel in alphabetical order including name, position title, and annual salary. The former Personnel Director would sit with the former Commissioner as he instructed her who he wanted to have an ACE award. The former Personnel Director was required to then create justifications for the awards after the determination was made as to who would receive them.

In addition to the ACE awards issued by KDA, auditors also reviewed documentation and made inquiries into concerns expressed about certain reclassifications. During interviews, a former KDA employee raised concern about a reclassification provided to an employee within the KDA Office of the State Veterinarian in July of 2010. The employee receiving the reclassification had just been hired into an entry level position at KDA in March 2009, and received the reclassification just over a year later unbeknownst to the State Veterinarian.

The State Veterinarian informed auditors that he did not find out about the reclassification until the personnel action was final. He noted that if the recommendation had come from the employee's supervisors he would have been aware of the recommendation. According to the State Veterinarian, the office had issues with the employee not working well with his supervisors at that time; therefore, he would be surprised if anyone had recommended the candidate for a reclassification. Auditors were informed by one of the employee's previous supervisors that the recommendation never came to the attention of the employee's supervisors and that they also did not find out about the personnel action until after the reclassification was finalized.

The employee's former supervisor further stated that there were several long-standing KDA employees who he personally had tried to have reclassified, but his suggestions were not accepted. The supervisor was uncertain whether the obstacle was the former Director of Personnel or the former Commissioner. At the time this employee received his reclassification, the Office of the State Veterinarian reportedly submitted other potential candidates; however, this particular employee, who was not on that list, was the only one from that office to receive a reclassification at that time.

ACE awards and reclassifications are means by which state agencies are able to reward those employees who have demonstrated exceptional work or who are performing work above their current grade As such, it would be reasonable that recommendations for specific candidates for personnel actions would be initiated by an immediate supervisor or director who would be more aware of the type of work being performed by each employee. Initiating these personnel actions at a higher level provides an appearance that the employee was selected for a reason other than the quality of work performed.

Recommendations

We recommend KDA create a formal written process by which its personnel actions involving ACE awards and reclassifications will be awarded. KDA should ensure that the process includes input at the beginning of the process from immediate supervisors so that the justification for a personnel action is based on the quality of work and accomplishments of the employee.

Finding 22: A merit employee's job responsibilities were eliminated, but the action is not documented in his personnel file.

Numerous KDA staff interviewed by auditors stated that the job duties were taken away from the Assistant Director of the Regulation and Inspection Division. Employees were instructed not to assign any tasks or send telephone calls to or ask questions of the employee. This directive included taking away the employee's access to KDA computer databases. According to the Executive Director of the Office for Consumer and Environmental Protection, he was instructed to "put him in a corner" by the former Commissioner. No specific reason was provided as to why this action was warranted, nor did the employee's personnel evaluations support that this type of action was taken or that the employee was counseled about performance issues.

The employee had reached the highest pay grade within the Kentucky merit system and was paid approximately $66,000 per year. Efforts to address any actual job performance issues should have been taken and a corrective action plan prepared in accordance with Personnel Cabinet guidelines and regulations if there was a significant issue that needed to be addressed. Taking away job duties in the manner undertaken in this instance is detrimental to the division's performance, and creates a morale problem for the employees that are asked to assume additional responsibilities. Also, due to taking this action for no documented or known reason, Kentucky taxpayers paid for an employee's salary, even though the employee was not allowed to perform any job duties.

Based on a review of the employee's performance evaluations, there was no discernible reason for this action to have been taken, nor did the performance evaluations indicate that the employee had been relieved of his job responsibilities. The current management of KDA has restored the employee's job duties.

Recommendations

We recommend that KDA ensure that all employees are provided with specific job duties and responsibilities that reflect an employee's job classification within the agency's personnel structure. We further recommend that an employee's personnel record and performance evaluations document significant actions taken by management involving an employee.

Finding 23: KDA interview file documentation for hiring employees was incomplete.

In response to allegations received by auditors during multiple interviews with current and former KDA personnel, auditors examined various KDA interview files maintained by KDA's Division of Personnel and Budget related to hiring employees, and found that file documentation maintained by KDA was inconsistent, and in one case missing altogether.

Auditors were unable to identify any current personnel within the Division of Personnel and Budget who knew what documentation may have been retained after employee candidate interviews were completed. According to the KDA Human Resource Branch Manager, the documentation was handled by the former Personnel Director, whose employment was terminated by KDA in January 2012.

During an interview with the former Personnel Director, she stated that KDA had no policy or standard practice regarding what documentation to retain in the interview file of a candidate for employment. She stated that she attempted to keep a copy of the register, the requisition, and interview notes in a candidate interview file. In addition to the interview folders, the former Personnel Director would retain a record of specific dates, such as the date the MQR is requested to be performed, the date the Personnel Cabinet returned the MQR, the date interviews were initiated, and the date the selected candidate was appointed to the position.

While reviewing a sample of interview files, auditors found: (1) one interview file where the appointed candidate's application was missing; (2) three interview files where the certified register reports were either missing or were the incorrect version; and (3) one interview file with only the candidate's name and no other documentation in the file.

In addition to missing documentation, auditors found that the interview panel recommendations for hiring an employee were not always maintained in the file. According to the former Personnel Director and some interview panel members, the interview panel recommendations were not always documented in writing. To completely document the employee hiring process, the interview panel's recommendation should be formally documented in writing and maintained with the interview file. This process would provide KDA with better documentation to support its appointments.

According to state Personnel Cabinet representatives, the general records retention schedule for all state agencies requires hiring materials to be retained for five years. One interview file, which auditors believe is for the Amusement Safety Inspector Supervisor position filed in June 2007, contained no documentation. See Finding 20 for additional information regarding this appointment.

Regarding the types of documentation that may be included within the "Hiring Process Materials File – Merit System Positions" series, the retention policy states:

> Series may contain: advertisement for the position; certified register; correspondence between candidates and agency; interview questions, responses and interviewer notes; resumes; applications; copies of performance evaluations; documentation of applicants' seniority, conduct, record of performance, qualifications as required on promotion (101 KAR 1:400); documentation of reference checks; documentation of results of background checks and/or drug testing.

Recommendations

We recommend KDA request training from the Personnel Cabinet regarding the proper documentation to maintain and process to follow when hiring an employee. We recommend that all KDA employees who are involved in the hiring process attend the training. After the training, we recommend KDA establish a written policy detailing the process that will be followed, documentation required to be retained, the documentation retention period, and the office responsible for retaining the information.

Finding 24: The timesheets of four KDA non-merit employees were signed by the former Personnel Director and not by a supervisor with direct oversight of the employees' work.

During the period under review, the timesheets of four non-merit Special Assistants within four KDA offices were signed by the former Personnel Director instead of officials within the four employees' assigned offices or supervisors with direct oversight of the employees' work. In addition, the four employees were given either limited or no specific job duties. Without a supervisor to directly monitor employee activity and to approve their timesheets, an employee's performance and use of time cannot be accurately determined, regardless of whether the employee has merit or non-merit status. Also, the validity and necessity of these positions is questionable if there are either no assigned or limited duties for the employees to perform.

These four positions were created by the former Commissioner during calendar year 2004. Based on a review of personnel records, KDA established one non-merit Special Assistant position for each of four KDA offices. During this time period, two of the Special Assistants (Special Assistant 1 and Special Assistant 2) had no specific job duties assigned to them. These employees were assigned work stations located in Clay and Knox counties and performed various duties in the field that appear to have been self-initiated and not directed by an immediate supervisor. The former Personnel Director signed the timesheets of these two employees but, as central office staff, she had no direct knowledge of the work the employees performed while working in the field.

A third Special Assistant (Special Assistant 3) was initially assigned no specific job duties, yet the former Personnel Director signed his timesheets even though he did not perform any duties under the Personnel Director's supervision. At the beginning of FY 2009, Special Assistant 3, on his own initiation, began performing specific job tasks and his timesheets were then signed by a supervisor responsible for those functions. However, Special Assistant 3 was assigned to the Office of State Veterinarian and the work he was conducting was in the Office for Consumer and Environmental Protection.

The fourth Special Assistant (Special Assistant 4) was assigned limited job duties under two separate offices within KDA, but the duties do not appear to have been sufficient to provide for a full work schedule. The former Personnel Director began signing this Special Assistant's timesheets after the supervisor of one of his areas of responsibility refused to sign the timesheets due to the lack of work product to support the work hours claimed. Special Assistant 4 was assigned a home work station in Clay County with work duties in the field. As central office staff, the former Personnel Director had no direct knowledge of work being completed by Special Assistant 4. See Finding 17 for further discussion of issues with this employee.

The following table illustrates the KDA office assignments of the four Special Assistants and the employees' annual salary as of January 1, 2011.

Table 13: Summary of Office Assignments and Salaries for Special Assistants

Employee	KDA Assigned Office	KDA Salary Amount as of January 1, 2011
Special Assistant 1	Office for Consumer and Environmental Protection	$57,755
Special Assistant 2	Office of Strategic Planning and Administration	$49,424
Special Assistant 3	Office of State Veterinarian	$44,541
Special Assistant 4	Office of Agricultural Marketing and Product Promotion	$41,448

Source: Auditor of Public Accounts based on timesheet and payroll information provided by the Kentucky Department of Agriculture.

According to KDA policy, direct supervision is not required during all working hours; however, an immediate supervisor must monitor the staff's performance to ensure that the employee maximizes their use of time. Additionally, supervisors are to approve comp time earned in advance; these employees, however, earned comp time without an immediate supervisor to approve the time worked. The former Personnel Director did sign comp time earned, and leave requests attached to the timesheets, but this was done with no knowledge of the accuracy or necessity of these requests. The following table illustrates the amount of comp time that was reported on the timesheets of the four Special Assistants that correlate to the time period in which the former Personnel Director signed their timesheets.

Table 14: Hours of Comp Time Earned by Special Assistants According to Timesheets Signed by Former Personnel Director for a Specified Timeframe

Special Assistants	Time Period Timesheets Signed by Personnel Director	Regular Comp Time	Comp Time Accrued at 1.5 Rate	Paid Comp Time
Special Assistant 1	07/01/2007 through 12/31/2011	94		403.5
Special Assistant 2	07/01/2007 through 12/31/2011	50		280
Special Assistant 3	07/01/2007 through 08/15/2008	31.5	85.5	
Special Assistant 4	07/01/2007 through 12/31/2011	275	256	
Comp Time Totals		**450.5**	**341.5**	**683.5**

Source: Auditor of Public Accounts based on actual timesheet information maintained by the Kentucky Department of Agriculture.

KDA payroll staff were also able to provide the actual amounts paid to Special Assistants 1 and 2 for working comp time. For calendar years 2007 through 2011, Special Assistant 1 was paid $20,425, and Special Assistant 2 was paid $12,631. According to the former Personnel Director, the amount of paid comp time decreased after she informed the former KDA Commissioner that this situation was putting a strain on KDA's budget.

An agency's personnel director should not be given the responsibility to monitor an employee's job performance unless the employee is directly supervised by the Personnel Director. Given the lack of duties assigned to the Special Assistants, it appears that the positions created were not based on the necessity for work to be performed. The creation of an employment position should be based on a valid and recognized need for the position by office management. Further, management should be aware of the employee's job duties and the time worked by the employee to perform these duties before being authorized to sign the employee's timesheet.

Recommendations

We recommend all field staff, regardless of merit status, be assigned a direct supervisor who has the opportunity and capacity to attest that work duties are being performed and completed. We also recommend that KDA only create employment positions that have specifically defined job duties and that are a necessary and justifiable expense of public funds. We also recommend KDA consider abolishing positions if the job tasks are not necessary to the daily functions of these offices. We further recommend that the Personnel Director only sign the timesheets of the employees directly supervised by the Personnel Director.

Finding 25: No entry level class exists for KDA amusement park inspectors.

During interviews with KDA personnel, auditors found that amusement park safety inspections were performed by employees working for KDA in a general series classification that requires no mechanical background, education, or experience. Given the mechanical equipment involved in amusement park rides, the popularity of such attractions, and the human safety risks associated with these rides, it seems reasonable that the job classification require some level of associated mechanical knowledge or experience.

The entry level position, Agriculture Inspector I, allows a KDA employee in this position to perform various types of inspections, including amusement ride safety inspections. Examples of job duties to be performed in the Agriculture Inspector I classification include inspecting livestock, collecting milk samples, inspecting for accuracy on weights, measurement and labeling, inspecting amusement rides and attractions, and grading hay. The only specific amusement ride inspector classification is the grade 12, Amusement Safety Inspector Supervisor.

KDA management stated that, although not a written policy, it is KDE's practice for employees in the Agriculture Inspector I classification to be accompanied in the field by a supervisor when performing amusement ride or other inspections. Though KDA may follow this practice, the Agriculture Inspector job classification does not require a supervisor to provide direct oversight of the employee in that position when performing inspections.

The National Association of Amusement Ride Safety Officials administers a nationally recognized certification program for amusement device inspectors. The Amusement Safety Inspector classification, which is the only KDA-specific amusement ride inspector classification, does not require or recommend a certification for this position. During the examination, the current KDA administration discussed its desire to require that KDA inspector supervisors be certified.

Recommendations

We recommend KDA consider reviewing the Agriculture Inspector series to determine whether it would be reasonable to create an entry level position specific to the amusement ride inspections that requires some level of associated mechanical knowledge or experience, and, for at least an initial time period, inspections by entry level employees are to be performed under the direct oversight of a supervisor.

We further recommend KDA consider requiring inspector supervisors to be certified to perform amusement devise inspections.

Finding 26: A former Director was the sole employee in the "Division of Outreach and Development," which was not a legally recognized unit of KDA.

During an interview with the current Deputy Commissioner of Agriculture, he stated that he served as the Director of Outreach and Development under the previous KDA administration, and in that position he was a "division of one" with no other employees working in the division. While auditors confirmed the Director acted as a "division of one," personnel documentation indicated that the position of "Director of Outreach and Development" did not actually exist in KDA's official organizational structure, and that the employee's position was actually funded as part of the Division of Value-Added Animal and Aquaculture Production.

KDA's Master Position reports show that KDA used the position established for the Director of the Division of Value-Added Animal and Aquaculture Production as the position filled by the employee. Further, as auditors interviewed the Assistant Director of the Division of Value-Added Animal and Aquaculture Production, it was apparent that the Assistant Director had been performing the director duties of the Division of Value-Added Animal and Aquaculture Production for a number of years. The Assistant Director believed that the division director's position was vacant.

KDA should examine its organizational structure and ensure that the actual organizational structure under which it operates is consistent with the KDA's official organizational structure as established by executive orders of reorganization and confirmed by the General Assembly in accordance with the provisions KRS Chapter 12. Inconsistencies between a formal organizational structure and the manner in which the organization actually functions can lead to organizational confusion and inefficiencies.

Regarding having a "division of one," KDA allowed an employee to receive the salary of a division director without requiring the individual to perform the duties of a division director. According to representatives of the State Personnel Cabinet, having a division of one within a state agency would not be allowed, and that it is a requirement to have more than one employee in a division.

According to the class specification for the Division Director position which the employee filled, the position “[p]rovides overall general direction for all branches within a division with a major program responsibility such as field services, purchasing accounts, personnel or a highly technical division, such as engineering, science, laboratory or computer technology; and performs other duties as required.” Although the employee filled a Division Director position that would meet this description, it appears KDA was not requiring this employee to perform these types of duties. By allowing the employee to be classified in this position and not to perform the duties of the division director or any duties within that division, KDA misrepresented the employment status and job duties of the employee.

Recommendations

We recommend KDA review and reconcile its formal organizational structure to the actual structure under which KDA operates. KDA should ensure that its Master Position report properly reflect the duties, job functions, and responsibilities performed.

We also recommend KDA ensure that a supervisory position is necessary, justified, and meets the requirements for such a position before placing an employee in the position. We further recommend KDA ensure that employees’ duties properly reflect the job classification duties and responsibilities performed by the employee.

Finding 27: KDA staff incurred a significant amount of overtime and expenses for staffing the State Fair.

A significant amount of overtime was earned by KDA staff when working at the Kentucky State Fair. In addition, our Procard review found several expenditures for food and drinks incurred for the purpose of a hospitality room at the State Fair. While KDA has a very important role in this statewide event, KDA’s management should control staff time and extra costs to keep these at a minimum.

In staff interviews, several comments were made that working the State Fair was a perk because it was a chance to earn comp time. While it was required and necessary for some personnel that work in the areas of livestock and amusement ride inspectors, employees also attended based on the request of the former KDA Commissioner. If the former KDA Commissioner requested an employee for an assignment at the State Fair, comp time was typically incurred and approved.

Because a list of all KDA employees assigned to work the State Fair during our audit period was not available, a report listing the amounts of comp time earned during this time period was requested for the 2008, 2009, 2010, and 2011 State Fairs. The following table illustrates the amount of comp time earned by all KDA employees during this time period.

Table 15: Total Comp Time Earned by KDA Employees During the Kentucky State Fair

2008 State Fair	2009 State Fair	2010 State Fair	2011 State Fair
3,247	3,247	3,907	3,187

Source: Auditor of Public Accounts based on information reported in Kentucky's Personnel System.

The hours in Table 15 do not include amounts the employees were paid for overtime. In our review of this information, there were two non-merit Special Assistants that earned an excessive amount in overtime pay, considering that they were not given specific duties at the State Fair. The following table documents the overtime paid to these employees at the annual State Fairs.

Table 16: Total Comp Time Paid for Two Special Assistants During the Kentucky State Fair

Employee	2007 State Fair	2008 State Fair	2009 State Fair	2010 State Fair	2011 State Fair
Special Assistant for the Office for Consumer and Environmental Protection	$2,940	$2,075	$2,383	$2,317	$2,110
Special Assistant for the Office of Strategic Planning and Administration	1,586	785	1,661	1,754	1,939
Totals	**$4,526**	**$2,860**	**$4,044**	**$4,071**	**$4,049**

Source: Auditor of Public Accounts based on information provided by the Kentucky Department of Agriculture.

During our Procard review, several of the selected expenditures sampled were food or drinks purchased with the justification of being supplies for the State Fair. The following table is a list of State Fair purchases discovered in the judgmental sample selected from KDA's Procard expenditures, not an all-inclusive list of State Fair purchases.

Table 17: Procard Expenditures for State Fair Supplies

State Fair Year	Description of the Expenditure Provided	Amount
2007	State Fair - Hospitality Suite - Groceries for meals, snacks, and drinks	$304.10
2007	State Fair Supplies - Coffee and cups	185.96
2008	State Fair - Bread, milk, chips	14.72
2008	State Fair - Drinks for hospitality suite - water, soda	19.78
2008	State Fair - Hospitality Suite - Chips, napkins, utensils, plates, bread	25.49
2008	State Fair Supplies - Coffee and cups	142.17
2008	State Fair - Drinks for the hospitality suite	290.72
2009	State Fair Hospitality Suite (Drinks - Mountain Dew and Diet Mountain Dew)	22.00
2009	State Fair Hospitality Suite (Drinks - Pepsi, Diet Pepsi, Mountain Dew, Diet Mountain Dew, Dr. Pepper, Sprite, Lemon Lime, Fruit Punch Gatorade, Water)	120.89
2009	State Fair Hospitality Suite (Groceries)	152.06
2010	State Fair Hospitality Suite/ Commissioner's Office (Groceries)	194.37
2011	State Fair Supplies- 5 packs of Nestle Water	17.45
2011	State Fair Supplies-Veggies, fruit, 3 packs of water	28.51
2011	State Fair Supplies-plates, toothpicks, unknown items	32.93
2011	State Fair and Commodity Breakfast -Serving tongs and tablecloths	34.52
2011	State Fair - Hospitality Suite - Bottled water	124.80
	Total	**$1,710.47**

Source: Auditor of Public Accounts based on a sample of Procard expenditures of the Kentucky Department of Agriculture.

According to the Finance Cabinet, it has allowed other agencies to have similar hospitality suites for their employees to access during the State Fair. This was allowed due to the hardships associated with staffing the State Fair, and these employees were usually not on travel status and not entitled to meal reimbursement. Therefore, it is difficult to determine whether these costs were allowable or appropriate. However, a substantial number of KDA employees did spend the night at the State Fair and would have been eligible for meal reimbursements. See Finding 7 on State Fair rooms.

While the State Fair is an important event, and KDA is instrumental in its planning and operation, restraint is needed to ensure that staff and supply costs are managed effectively. Whether the employee accrues or earns comp time, the use of staff should be kept to a minimum.

Recommendations

We recommend KDA ensure only staff with specific responsibilities are used in support of the Kentucky State Fair. We also recommend that food and drink expenditures be reimbursed only if they are reasonable and necessary.

Finding 28: The operation of KDA's fuel and pesticide testing laboratory (Fuel Lab) cost KDA $903,389 in FY 2011, yet it has not reached the anticipated test sampling goals publicized when constructed at a cost of $1.65 million in FY 2008.

A new Fuel Lab, constructed for KDA in FY 2008, cost Kentucky $1.65 million and continues to incur significant costs to operate without having reached its anticipated test sampling goals. While the goal of testing 20,000 fuel samples was publicized to be reached during the Fuel Lab's first full year of operations, the Fuel Lab tested only 3,786 fuel samples that year. It is questionable whether enough research into the Fuel Lab's feasibility was conducted prior to KDA's request for its construction. If a feasibility study was conducted, the study and associated documentation was not maintained by KDA. Current staff are not aware of any formal study that was conducted. The concept to increase test sampling and the desire to conduct these tests internally at KDA rather than paying an outside vendor is beneficial and important, but the publicized goals do not appear to have been realistic, and they have not been accomplished.

During the 2006 General Assembly, the former Commissioner advocated the need for a new Fuel Lab due to the fact that Kentucky sells about 3.4 billion gallons of fuel each year, but KDA was only testing 600 samples. According to interviews with KDA staff, test results returning from their outside vendor were obviously incorrect, yet it was costing KDA $198 per sample. In addition to incorrect test results, KDA staff said there was a concern that Kentucky was getting a reputation as a dumping ground for bad gasoline due to the lack of testing.

Kentucky's General Assembly appropriated $1.65 million in general funds to construct a new Fuel Lab to allow the former Commissioner and "the Department of Agriculture to fulfill the mandates of KRS 363.900-363.908, KRS 217.542-217.630 and KRS Chapters 217B, 27, 28, 29, and 31 which deal with fuel and pesticide testing and storage." The capital projects budget provides the following description and justification:

> The agency is mandated to assure quality in motor fuels and safety in pesticides storage and usage. The proposed laboratory will enable the Department to execute its fuel and pesticides testing program more timely and possibly at a lower cost. The agency now uses contract vendors and the costs of these outside tests, particularly for fuels, have been rising dramatically. By operating its own lab, the Department can avoid delays and provide an elevated level of service and protection to the general public and to firms who face unfair competition from those operating outside of the legal standards.

Prior to the construction of the Fuel Lab, KDA used an outside lab located in Tennessee to test Kentucky fuel samples. According to KDA staff, the cost per sample when the program first started in 1995 was $38, and 6,000 samples were tested at a cost of $228,000. For the last year of the contract and prior to the opening of the new Fuel Lab, 600 samples were tested at a cost of $198 per sample for a total cost of $118,800.

According to a special advertising report published in the *Lane Report* in the summer of 2009, KDA publicized that the Fuel Lab was on track to test at least 20,000 fuel samples in its first full year of operation. While 20,000 samples is a worthy goal, the Fuel Lab has not been able to achieve its stated goals since the Fuel Lab was completed in April 2008. Since opening the Fuel Lab in FY 2010, 3,786 samples were tested the first year and 4,925 were tested in FY 2011. As of January 9, 2012, 2,759 samples have been tested during FY 2012 with 5,400 tests projected.

KDA staff stated that a great deal of time was needed during the first year to verify the Fuel Lab's test results and to establish its credibility. All motor fuels must conform to American Society for Testing and Materials standards, so efforts were made to ensure that the lab was in compliance by participating in several quality assurance program checks.

The Fuel Lab was outfitted with state-of-the-art technologies that were protected by an eight- foot high chain link fence with razor wire and bio-security equipment. The following table illustrates the cost to operate the new Fuel Lab since its completion in April 2008. The table includes the expenditures accounted for as a general fund cost and as an agency fund cost associated with the Motor Fuels Testing Program. The revenue associated with the Fuel Lab includes a portion of the fees associated with licensing and permits paid by vendors that sell motor fuels in Kentucky. This table does not reflect the capital costs of $1.65 million to construct the Fuel Lab.

Table 18: KDA's Motor Fuel Lab's Expenditures to Revenue Comparison

Category	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012 as of 04/03/2012
Expenditures:					
Salaries and Outside Services	$359,554	$475,495	$447,714	$429,119	$369,851
Operating	264,035	406,757	364,126	376,500	280,040
Equipment Purchases	708,303	414,301	0	97,770	0
Totals	$1,331,891	$1,296,554	$811,840	$903,389	$649,891
Revenues:					
General Permits	$164,072	$135,100	$193,711	$148,857	$189,571
Sand and Gravel Licenses	0	2,697	0	0	0
General Fees	0	0	0	960	25
Fines	3,316	1,546	8,610	8,880	2,550
Totals	$167,389	$139,343	$202,321	$158,697	$192,146
Difference	**($1,164,503)**	**($1,157,211)**	**($609,519)**	**($744,693)**	**($457,745)**

Source: Auditor of Public Accounts based on information provided by the Kentucky Department of Agriculture.

If an outside vendor was used in FY 2011, KDA would have paid $975,150 if the vendor had charged the test sample rate $198 (4,925 samples x $198). This amount is more than the $903,389 in expenditures that were incurred by KDA to achieve this same level of testing. KDA has not achieved the anticipated number of samples, nor has the Fuel Lab generated its own revenue to reduce its annual expenditures.

The Fuel Lab has not established contracts to provide testing services to other states or commercial companies. KDA has entered into non-binding agreements that have the stipulation that there is no requirement to use KDA services. The revenue collected through these agreements has been only $2,010.

Current and former KDA staff have expressed concerns that the former Commissioner may have oversold the commercial aspects of the Fuel Lab and the lab's ability to be self-sustaining. According to the information published in the *Lane Report*, a study was conducted of three states that had the best reputations in this area. The statement was made that Kentucky's fuel lab was designed to bring together the best features of those programs. However, documentation for this study was not maintained by KDA and the individuals currently working in the fuel lab are not aware of any formal study being conducted or discussed with the staff.

Recommendations

We recommend that KDA evaluate all aspects of the Fuel Lab to maximize the use of this facility and increase the testing of Kentucky's motor fuels and other types of fuel and pesticides. Efforts should be increased to contract with other states to assist KDA in funding the expenditures incurred for this testing now that the Fuel Lab has been established and meeting in compliance with the regulations of testing organizations.

Finding 29: During the audit period, KDA did not account for the disposition of promotional KY Proud products bought by KDA or received as donations from KY Proud vendors.

During the audit period, KDA tracked the use of KY Proud items with the KY Proud logo such as hats, pencils, and other items. In addition, KDA had established a system for staff members to request these items for events or other circumstances. However, KDA did not document the use of KY Proud products, nor did it have a process in place to ensure personnel were not accessing the products for their personal use. KY Proud products should be used to fulfill the purpose of the program, which is to promote the KY Proud vendors, and are not intended to be used for personal benefit.

Unlike the KY Proud logo items, KY Proud products, either bought by KDA or received as donations from KY Proud vendors to be used for promotional purposes, had no accounting for the original cost or source of the item, the distribution, or the ultimate use of the item. Primarily, these products were to be used to fill KY Proud gift baskets that were distributed as door prizes at conferences or meetings, gifts to visiting dignitaries, displays at special events, or for other events, if requested by certain groups, that may or may not be related to agriculture. Occasionally, KY Proud vendors would donate enough products to be distributed to all attendees at an event. In addition to the donations, a KDA staff member estimated that KDA spent between $4,000 and $6,000 in general fund dollars during calendar year 2011 alone for products to be given away in this manner.

Unfortunately, these products were sometimes used by employees for personal use as well. As mentioned in Finding 9, some products were placed in KY Proud gift baskets given to family members of a KDA employee. Some products were simply consumed on the spot.

The ability to misuse KY Proud products for personal use was enhanced because a system for tracking KY Proud products stored at KDA's offices did not exist during the audit period. In addition, the products were maintained in a cabinet accessible to all employees, and the staff member with the most knowledge of the inventory of KY Proud products traveled as part of her primary duties and was not able to effectively monitor the inventory.

Because the cost and original source of KY Proud products held in inventory were not accounted for, KDA does not know the value of any one gift basket or for all items given away from this inventory. The staff member assigned to gift basket duties estimated that the value of baskets varied from between $30 and $150 each, depending on the basket size and contents. Without knowing the value of the products, KDA was unable to identify the exact dollar amount of items used for promotional events or that was used by KDA personnel for personal benefit.

The KDA staff member responsible for gift baskets agreed with auditors that strengthening internal controls over KY Proud products would be beneficial to the process, and she offered to collaborate with her Executive Director to create a form that would document the quantity and cost of the items used in each basket, as well as the destination and business purpose for the request for products. As a result, the *KY Proud Basket Request Form* was created to document this information, as seen in Exhibit 6.

Recommendations

We recommend that KDA create, document, and implement a process to account for all KY Proud products held for promotional purposes. Relevant information, including the cost, source, and business use of the products should be appropriately documented when the items are received and distributed.

We further recommend that KDA continue to document and implement the process related to the newly created *KY Proud Basket Request Form*. KDA executive staff should use these forms to review the quantity and cost of the gift baskets to document that baskets are appropriately valued for each occasion and to determine whether the cost of the gift baskets is an effective method to achieve promotional objectives.

Finding 30: KDA had not established a regular inspection plan for testing motor fuel quality.

Under the former KDA administration, the KDA Division of Regulation and Inspection had not established an inspection plan for the testing of motor fuel quality, testing that they are statutorily required to perform. The number of motor fuels tested in Kentucky counties varied from 2009 to 2011. Auditors found KDA’s inspectors performed inconsistent testing, as they did not sample motor fuels in some counties in Kentucky for two or three of the past five consecutive years. Additionally, stations in some counties whose motor fuel quality was tested failed the tests, but the stations were permitted to continue selling motor fuels without follow-up testing.

Fuel inspection statute

Motor fuels are one of the many inspections KDA performs throughout Kentucky. Specifically to motor fuels, KDA must adhere to KRS 363.902, which states, "[t]he Commissioner or his authorized agent shall implement and administer an inspection and testing program for motor fuels to ensure compliance." KDA’s website states, “the gas pump program is responsible for the testing of retail motor fuel dispensers to ensure that the quantity delivered is accurate and that the total price is computed correctly. Inspectors serve both consumers and businesses by assuring equity in the marketplace.”

KDA fuel inspectors

KDA fuel inspectors are assigned to cover specific regions of Kentucky. Each region includes a specific number of counties inspectors are required to visit and obtain motor fuel samples. The inspectors can take multiple samples from one location, including the unleaded grade, plus grade, premium grade, or diesel fuel. Auditors were told that the KDA fuel inspectors test motor fuel stations at random as determined by their supervisors, unless a complaint is filed about a particular station with KDA, when they would visit and obtain a sample from the station immediately. As a result of complaints, stations could experience multiple inspections and testing in one year.

Fuel samples obtained by KDA inspectors

From documentation provided, auditors found KDA inspectors selected 2,931 fuel samples in 79 counties in 2009. In 2010, KDA inspectors increased their inspections by testing by 40 percent or 1,180 more fuel samples, by selecting 4,111 fuel samples in 89 counties. From 2010 to 2011, KDA was able to increase their testing by an additional 612 fuel samples, or fifteen percent by testing 4,723 samples in 2011.

Auditors found wide variances in the number of fuel samples obtained by KDA inspectors in 2009, 2010, and 2011. For example, there are 258 fuel stations currently in Jefferson County. In 2009, there were 40 fuel samples acquired at only 18 fuel stations. In 2010, the samples tested in Jefferson County fell to 25 and were taken from 11 stations. For 2011, Jefferson County saw a dramatic rise in testing, as 458 samples were taken in 2011 at 140 stations. No documented explanation was provided for the significant variance in fuel testing in Jefferson County. See Exhibit 7 for the current number of motor fuel stations in each Kentucky county.

Auditors found that six of Kentucky’s 120 counties did not have any quality control motor fuel testing during 2009, 2010, and 2011. Auditors also found that 19 counties had no testing for two consecutive years, from 2009 to 2011. See Exhibit 8 for the number of fuel samples pulled in each Kentucky county in 2009, 2010, and 2011.

Motor fuel quality testing and testing failures

In 2009, KDA began performing their own motor fuel quality tests in a newly constructed KDA fuel lab instead of sending the samples to an outside lab. KDA’s testing of the fuel quality samples involves the review for water content, particulate matter, and additives in motor fuels. An example of an additive KDA tests for is MTBE. KRS 363.9053 states, in part, “the use of methyl tertiary butyl ether, known as MTBE, as a fuel additive shall be illegal in the Commonwealth of Kentucky.” If MTBE is found during testing, then the station is considered to have “failed” the inspection. See Finding 28 for additional information on the KDA fuel lab.

KDA provided to auditors the number of visits made in each county involving the testing of motor fuel quality. Auditors found variances in the number of visits made to many of the counties where motor fuel quality testing was completed. For instance, Barren County had one visit performed by an inspector in 2008 and none in 2009. But in 2010, there were 51 test visits completed by inspectors, but only two visits were completed in 2011. Counties that had no test visits for over a year were Breckinridge, Harlan, McCreary, Pulaski, and Russell counties. Fayette and Jefferson Counties, which have the largest number of fuel stations, at 122 and 258 respectively, had less than ten test visits each in 2008.

Additionally, KDA provided documentation that identified stations in Kentucky that failed testing for water content, particulate matter, and additives in the stations' motor fuels. These stations were scheduled for follow-up inspection and testing, but no testing occurred. According to the test "failure" information provided to auditors, approximately 43 Kentucky counties had at least one station failure and some of the 43 counties had multiple failures.

When auditors compared the counties having test failures to the counties with few to no motor fuel quality checks, six of eight counties compared had at least one motor fuel failure. Barren County, which had only one visit by inspectors in 2008 and was not visited again until 2010, had three test failures in 2010. Fayette County had four failures; Jefferson County had one failure, as did Pulaski. McCreary and Russell Counties had stations that failed testing from three visits within a two month period. According to the documentation KDA provided auditors, these failures did not have additional follow-up visits by inspectors. Fines for motor fuel failures are discussed in Finding 35.

Because KDA did not have a clear plan for performing motor fuel quality testing, many counties did not have testing completed for more than one year. The lack of routine quality control testing increases the risk that poor quality fuel will be passed on to the public.

Recommendations

We recommend that KDA establish a systematic fuel inspection plan, which should include, at a minimum, a schedule to test motor fuel in each Kentucky county within a given time period. The plan should take into consideration the number of fuel stations in each county. KDA management should determine the best course of action to take in order to perform this testing and work into the plan the ability to inspect complaints with the staff available. Once testing of all stations is complete, KDA should start the cycle of inspection and testing again.

We recommend KDA develop a process to ensure that any and all motor fuel stations with any failures be re-tested before the station is permitted to continue selling their motor fuels.

Finding 31: KDA did not reimburse employees for home internet connections in a consistent or uniform manner.

KDA reimbursed up to 70 employees for home internet connections with individual monthly costs that varied from $14.95 per month to $97.64 per month for a total monthly expense to KDA of $2,352. These varied costs encompass both partial and full monthly costs for high-speed internet, and in at least one instance, it appears the cost may include the bundled costs of telephone services. The rate at which an employee gets reimbursed appears to depend on the supervisor that oversees an employee and the geographic location of the employee's workstation. The process was not administered in a uniform manner and there are no policies specifying the criteria for an employee to receive the reimbursement, the allowable reimbursement amount, or the services that may be included for reimbursement.

Due to the numerous types of statewide inspection and oversight services conducted by KDA, many staff have their homes assigned as their workstations, with staff dispersed around the state in geographic areas convenient to their inspection or oversight duties. These staff are responsible for compiling inspection reports and other types of documentation that must then be uploaded to a central database or sent to central office staff in a timely manner. KDA has historically provided field staff with a means of providing this information electronically.

Initially, electronic communication was provided through contracts with internet service providers for dial-up services and paid directly by KDA. As high-speed internet connections became more widely available and the use of electronic work products increased for field staff, many employees began requesting reimbursement for faster internet speeds to send and receive work documents. Based on interviews with KDA staff, director-level supervisors had the authority to approve these reimbursements on a case-by-case basis depending on funds available in the budget. The amounts to be reimbursed were left to the discretion of the supervisors. Since no uniform KDA guidance had been provided, supervisors could choose who gained approval and how much would be reimbursed.

A review of reimbursement documents for a sample of the 70 employees shows that some employees received reimbursement based on the guidelines of federal grants received by KDA, which is typically $16.95 per month. Other employees received full reimbursement amounts for DSL and Cable internet service that generally ranged from $30 to $50 per month. The highest paid service of $97.64 per month is for a satellite internet connection for an employee with no other high-speed internet options. At least one employee appears to have received reimbursement for a bundled package that contains both internet and phone services for a total of $64.53 per month. In addition, other documentation indicates that while most staff receiving reimbursement are field staff that work in many locations around the state, five of the 70 employees have their workstations at one of the Frankfort offices.

This lack of centralized, uniform authority over internet reimbursement has resulted in a large disparity of payments among KDA employees. By not setting standard guidelines for reimbursement of a service that is intended to assist employees in their job duties, the choices of supervisors could be used as either a reward or retaliation based upon personal discretion. It may also result in overpayment of services by KDA if there are no overall limits on the reimbursable amounts or the types of services that may be included.

In order to ensure that KDA provides the necessary tools to its employees in a fair and equitable manner, a uniform process should be established to provide clear guidance to agency management. This should include criteria for who will receive reimbursement, which criteria can then be applied consistently to all KDA staff. Such decisions can only be made once KDA has conducted a sufficient review of the services provided by field staff and determine if such reimbursements are, in fact, necessary for the completion of their job duties.

Recommendations

We recommend KDA conduct a thorough review to determine whether reimbursement for home internet service of certain field staff is a necessary expense to ensure that employees are able to effectively and efficiently carry out their assigned duties, or if other cost effective methods are available.

If it is determined that such an expense is necessary and justified, we recommend KDA develop a written policy that establishes the process for requesting and approving home internet reimbursement for field staff. The policy should establish clearly defined criteria for determining which employment positions should receive reimbursement to ensure personal prejudices do not come into play in the decision-making process. Final approval should be centralized with a single executive officer to ensure a consistent process is followed. The policy should also establish a standardized limit on the amount that may be reimbursed for all employees, based on the expected usage of the service for work purposes.

Finding 32: KDA inventory records were incomplete and not adequately maintained.

According to one KDA Executive Director, during the current Administration, KDA employees began to express concern that KDA did not have adequate internal controls to properly monitor inventory. After conducting several employee interviews and examining the inventory records for items valued between $500 and $5,000, auditors found that most items on the inventory list were over ten years old, and that the agency has struggled for years to maintain accurate inventory records.

According to a former KDA Executive Director of OSPA, the KDA inventory had not been properly maintained for approximately two and one-half years prior to his employment at KDA in August 2004. He stated that in early 2007 the inventory lists were in fairly good shape and KDA had successfully performed multiple inventory counts. The former KDA Executive Director of OSPA stated that the KDA inventory was difficult “to get your arms around” because of the significant amount of equipment KDA possesses throughout the state. This former Executive Director left KDA employment in December 2007.

In discussing the inventory process with a former KDA Administrative Branch Manager in OSPA, he stated maintaining an accurate inventory was something he struggled with for the last five years. The former Administrative Branch Manager was employed by KDA between 2005 and January 2012 and supervised the employee responsible for maintaining KDA's inventory records. According to the former Administrative Branch Manager, he audited the employee's inventory listing of items valued over $5,000 five times in 2011 and continued to find problems with items not properly inventoried or accounted for. The former Administrative Branch Manager stated that he removed the responsibility for maintaining the inventory records from the employee, and he and another OSPA employee worked to reconcile the inventory items with a value of over $5,000. The former Administrative Branch Manager believed the inventory valued over $5,000 was reconciled and that they then began focusing their attention on the inventory valued in the system between $500 and $5,000.

The former Administrative Branch Manager indicated the inventory was not something that the prior KDA administration thought was important. He noted that after the former Commissioner's offices moved following a flood in 2008, the former Executive Director of the Office for Consumer and Environmental Protection arranged with Finance's Surplus Property to schedule a disposal date for inventory items within that office. The former Administrative Branch Manager stated that he asked the Executive Director to make certain that they had a complete listing of items disposed of through Surplus Property so that KDA could maintain accurate inventory records. A listing of those items reportedly was not maintained by KDA, and without the disposal numbers, KDA could not remove the items from their inventory listings. According to the former Manager, the inventory items consisted of office furniture.

The KDA IT Director also stated that the inventory had been "a train wreck" for the last 16 years. She has maintained her department's inventory in a separate spreadsheet for the past two years, and notifies the inventory officer if there are changes needed to be made to properly account for the inventory items. According to the IT Director, she was able to use her inventory records to locate a number of the inventory items KDA reported missing earlier in 2012.

According to the IT Director, KDA did not have the personnel available to devote sufficient time to the inventory process. The IT Director stated that the state's accounting system used to maintain agency inventory, but that it was difficult to manage, and that it took an experienced employee in using the state's accounting system seven minutes to transfer a single inventory item from one individual's name to another. While difficulties with the state's accounting system had been noted by other agencies, those other agencies found a way to maintain their own records and reconcile their inventory records to the state's accounting system.

On March 14, 2012, auditors received an updated inventory listing from KDA of items valued in the system between $500 and $5,000. After obtaining the updated listing, auditors sampled the report, selecting several of the higher dollar valued electronic items on the list and found most of the electronic equipment previously identified as lost was purchased over ten years ago and likely would currently have minimal value.

Based on the information obtained through interviews and a review of the updated inventory list provided by KDA on March 12, 2012, auditors concluded that KDA's inventory records are incomplete and have historically not been properly maintained by the agency.

Per Finance and Administration Cabinet FAP 120-20-01,

> Pursuant to KRS 45.313, each budget unit shall maintain a current fixed asset record of equipment having an original cost of five hundred dollars ($500) or more and useful life of greater than one year.

According to its FY 2012 Inventory Procedures,

> The Finance and Administration Cabinet, Division of Statewide Accounting Services requires an annual physical inventory of fixed assets by all state departments. The accuracy of the fixed asset records is necessary in order for management to demonstrate stewardship as well as reporting accurately the Commonwealth's financial position at year end through the Comprehensive Annual Financial Report (CAFR). Non-expendable personal property observations are required every year.

Recommendations

We recommend KDA review its current inventory process to ensure adequate record keeping of its inventory items. If KDA maintains a separate inventory system outside of the state's accounting system, the agency should ensure there is a reasonable methodology by which to reconcile its records with the state's system so that the items can properly be accounted for during physical inventory counts. Finally, we recommend KDA assign appropriate personnel to maintain and monitor the inventory process and routinely perform spot checks of inventory items to ensure they are properly recorded and accounted for.

Finding 33: KDA tracking of Sweet Sixteen basketball tournament tickets.

During our examination period, a contract was entered into between the Kentucky High School Athletic Association (KHSAA) and KDA. According to the contract, KDA agreed to buy a merchandising package for the Boys' and Girls' Sweet Sixteen basketball tournaments. The merchandising package provided KDA with four Boys' Sweet Sixteen tickets in Section 30, Row AA, and four tickets in Sections 16 or 12 at no charge. KDA and KHSAA continued this annual agreement thru 2011. From 2007 through 2011, the cost of the agreement ranged from $33,100 to $36,750 per year.

Funds for this contract were allocated from the KY Proud agency fund and were approved by the Agricultural Development Board. The KHSAA contract provided KDA radio commercials during the broadcast of the Boys' and Girls' Sweet Sixteen basketball games, courtside signage, displays and booth space at the tournaments, two 30-second commercials during the telecast of the Boys' Sweet Sixteen championship game, print media, timeout sponsorship at the boys' and girls' games, and public address announcements. In 2012, the contract was amended to include only four tickets to the Boys' Sweet Sixteen tournament. However, during our examination period, KDA had access to eight tickets per session to the Boys' Sweet Sixteen tournament.

A KDA employee stated that he received the tickets from the athletic association and he then gave all eight tickets to the former Commissioner. KDA has no policy related to the use of the tickets nor did KDA document who initially received the tickets, how they were distributed, or who ultimately used the tickets.

Recommendations

We recommend that KDA develop a policy that stipulates who is to receive sporting event tickets or other items received by KDA when entering into promotional or other contracts or activities. We recommend the policy require documentation be maintained to identify the number of tickets or other items that may be received, who initially received the tickets or other items, who ultimately received and used the tickets or other items, and the business purpose related to the use of the tickets or other items.

Finding 34: A KDA executive director and former director told staff to delay action regarding a grain dealer because it was an election year and may cause a negative political outcome for the former Commissioner.

The former Executive Director of the Officer of Consumer and Environmental Protection told the supervisor of inspectors for licensed grain dealers to avoid taking action on a licensee that, according to a grain inspection report, was in violation of the surety bond requirement under KRS 251.720(6). The statute states that,

> [a]n incidental grain dealer whose total purchases of grain from producers during any fiscal year do not exceed an aggregate dollar amount of two hundred fifty thousand dollars ($250,000) may satisfy the bonding requirements of this section by filing with the department a bond, certificate of deposit, or an irrevocable letter of credit at the rate of one thousand dollars ($1,000) for each ten thousand dollars ($10,000) or fraction of ten thousand dollars ($10,000) with a minimum bond, certificate of deposit, or an irrevocable letter of credit of five thousand dollars ($5,000), and a current financial statement.

According to a KDA inspection report dated July 7, 2011, a farm supply store licensed to purchase grain from producers for resale had a surety bond of $2,500 in the form of a certificate of deposit. This was an appropriate bond amount until the statute was changed in June 2011. As seen in KRS 251.720(6), the licensee should have had a minimum of $5,000 for the surety bond. The licensee was notified by the grain inspector supervisor that failure to provide the required level of surety bond could result in revocation of their license. The licensee protested the larger surety bond requirement and the possibility of license revocation in a July 21, 2011 letter to the grain inspector supervisor stating,

> We will tell our customers that no corn is available because of government interference – specifically the Kentucky Department of Agriculture. Election year…huh?

According to the grain inspector supervisor, he met with the former Executive Director and the former Director of Regulation and Inspection concerning the letter and he was told by the former Executive Director that it was an election year and that he did not want the issue to result in problems for the former Commissioner, and the former Director agreed. The grain inspector supervisor noted that the former Director of Regulation and Inspection recognized the legal requirements but noted that the former Executive Director was in charge. No action was taken against the licensee, and a follow-up visit was not conducted until February 2, 2012 under the newly elected KDA administration.

Due to the actions of the former Executive Director, it appears that the standard process for oversight of licensed grain dealers was comprised due to political considerations. Such actions may be a violation of 11A.020(1)(d), which prohibit a public servant from using their official position from securing or creating privileges for themselves or others.

Recommendations

KDA should not allow political considerations to interfere with the inspection and licensing process. Any such instances of interference should be reported to the Executive Branch Ethics Commission.

Finding 35: KDA is not adequately tracking fines it has issued and has no policy relating to probating those fines.

Fines may be levied by KDA's Division of Regulation and Inspection due to a failed inspection conducted under the following six programs:

1. Amusement Rides and Attractions Program,
2. Egg Marketing Program,
3. Grain Program,
4. Motor Fuel Program,
5. Package Checking Program (Net Contents), and
6. Price Verification Program (Scanner).

The inspection and fine collection process varies for each program that can issue fines, but, in general, field inspection reports are forwarded to the KDA office in Frankfort. Administrative program staff in Frankfort determine whether a violation occurred and whether a fine is necessary. If a fine is determined to be necessary, the penalty amount is entered into a central database system. The database system generates an initial notification of fine letter, which is mailed from KDA.

After receiving a fine notification from KDA, a company may request a meeting with KDA or voluntarily pay the fine. If a meeting occurs, the fine may remain, be reduced, be eliminated, and/or the company may be placed on probation. If the company did not respond to the fine notification, KDA did not generally follow up to ensure payment was made after the letter was sent. Also, if a business is closed or under a stop-sale order contingent upon a re-inspection due to a violation, the re-inspection can be performed regardless of whether the fine was paid. KDA did not aggressively follow-up on outstanding fines, and tracking of resolutions is minimal. Further, KDA's past practice was to emphasize voluntary compliance and not fine enforcement.

At a minimum, KDA should be able to determine the original fine amount and, if applicable, the amount a fine was reduced, why the amount was reduced, and the amount and date that a fine was paid for every occurrence of a violation. Paid and unpaid fines should be easy to accurately calculate. KDA should have written policies and procedures detailing the fine reduction and collections process.

In all of the above programs, except the Grain Program, there exist outstanding fines. KDA, however, cannot accurately determine the amount of unpaid fines due to database system design limitations. The amount of unpaid fines is maintained primarily in the database system, but this system was designed for licensing purposes and not for tracking fines. The database system reports are in PDF format and the data is difficult to obtain in an electronic spreadsheet. Without a user-friendly data format to calculate outstanding fines, the data is difficult to use for managing outstanding fines, and the database system is inefficient for collecting fines. Also, the data within the database system has to be manually updated, and these manual changes have not always been updated in a timely manner. KDA does not have any written policies and procedures relating to the fine collection process.

The lack of a formal and consistent process in establishing, reducing, tracking, and collecting fines results in inconsistent practices and policies being applied, businesses may not be treated uniformly, and there may be no consequences for failing to pay a fine. The lax enforcement of fine collections could encourage repeat offenders. Since some adjustments to fines are not recorded, KDA cannot ensure the accuracy of the data, and the unpaid fines balance is misrepresented. Without proper controls and an effective electronic system in place to ensure the tracking and collection of unpaid fines, KDA cannot effectively manage the fines it imposes.

Recommendations

We recommend that KDA develop and implement detailed policies and procedures for recording and collecting outstanding fines. We also recommend KDA develop a spreadsheet, or purchase software, that will capture fine history, allow for fine adjustments to be recorded, and generate detailed reports. KDA should provide training in tracking and collecting outstanding fines. KDA should routinely update, monitor, and test the validity of outstanding fine data.

Finding 36: KDA cannot determine whether maintaining its fleet of vehicles is the most cost efficient method and vehicle assignments comply with Finance Cabinet guidelines.

KDA manages its own fleet of vehicles but must follow the same guidelines established by the Finance Cabinet for all other state vehicles. KDA currently owns 183 state vehicles with 132 staff having assigned take home vehicles. While cost savings have been claimed for the internal management of the KDA fleet, these numbers were based on estimates instead of actual numbers. KDA is not required to justify their entire fleet of vehicles, but KDA is required to justify, at least annually, the assignment of take home vehicles. Based on these guidelines and KDA’s 2011 justification report, 24 of the take-home assignments are questionable. In addition, from 2010 to 2011, 11 staff were removed from the list as having state vehicles due to concerns that the vehicle assignments did not meet criteria required by the Finance Cabinet.

As of March 16, 2012, KDA had 183 vehicles in their fleet. Of the 183 vehicles, 160 had been permanently assigned to employees as take home vehicles or to a particular division or branch. There were 15 vehicles unassigned, six pool cars for the areas of animal health and marketing, and two vehicles that were identified as "wrecked." KDA had 266 filled positions as of January 1, 2012 and 132 employees had been permanently assigned a take home vehicle so approximately 50 percent of KDA employees were permanently assigned a state vehicle. The following table presents KDA's Fleet Management expenditures for FY 2007 through April 23, 2012.

Table 19: KDA's Fleet Management Expenditures from FY 2007 through April 23, 2012

Expenditures	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012 as of 04/23/2012
Salaries and Outside Services	$39,042	$109,448	$117,298	$121,573	$125,240	$157,713
Operating	361,646	753,805	866,695	706,531	823,833	653,489
Equipment Purchases	838,020	813,091	0	406,625	275,170	0
Totals	**$1,238,708**	**$1,676,344**	**$983,994**	**$1,234,729**	**$1,224,243**	**$811,202**

Source: Auditor of Public Accounts based on information provided by the Kentucky Department of Agriculture.

KDA's projected cost savings based on estimates, not actual

KDA's claim of cost savings for purchasing and managing their fleet is based on estimated numbers and not historical data. KDA compiles a comparison of the costs to operate an agency fleet with the cost of making lease payments to the Finance Cabinet. This cost comparison analysis is provided to the Finance Cabinet upon request, and consistently shows a savings to KDA by maintaining a separate fleet. The last Cost Effectiveness Report produced by KDA was provided to the Finance Cabinet on March 29, 2010.

The estimated mileage used in the Cost Effectiveness Report was based on the expected lifespan of KDA vehicles of 100,000 miles and five years. KDA calculated a monthly cost for each type of vehicle in the KDA fleet using this same estimated mileage amount for each vehicle. Using the same expected mileage for each vehicle does take into consideration that certain vehicles are pool cars, certain vehicles are only used for specific activities, and certain vehicles were in the KDA fleet for more or less time than the expected average. By not using the actual mileage for each of the vehicles as the basis of the cost to operate a vehicle, KDA is not providing a true representation of whether maintaining an agency fleet internally is more cost effective than leasing vehicles through the Finance Cabinet.

Finance's established guidelines

Besides documenting the cost savings for the entire KDA fleet, the Finance Cabinet also requires KDA to justify the number of take home vehicles permanently assigned to specific KDA employees. The Finance Cabinet guidelines detail the criteria for which a state agency must follow to request a permanently assigned vehicle to an agency employee for take home purposes

According to these criteria, vehicles may be assigned to Constitutional Officers, an employee whose principle job is law enforcement, or an employee considered a first responder. Guidelines also state that an employee's official workstation must be his/her home residence, a state vehicle must be driven more than 10,000 miles per year for official business (excluding commuting), the employee does not go to an agency office more than once each week, and permanently assigning a vehicle to an employee is financially beneficial to the Commonwealth.

Excessive use of KDA's permanent vehicle assignments

While much of this justification relies on the amount of mileage driven by each employee, KDA is not able to track mileage based on an employee. The only mileage maintained is the mileage from the employee's most recent vehicle assignment. KDA does not maintain a complete history of vehicle assignments, so KDA used the mileage from the employee's most recent vehicle assignment. For example, if the employee's current vehicle assignment was for six months, then this is the number of miles used for justification purposes. In addition, commuting miles would have to be reported by the employee in order for these miles to be subtracted for justification purposes. This number is questionable due to low number of employees reporting personal use of state vehicles in Finding 38.

Justifications for the 132 vehicle assignments can be divided into five of the following areas:

- The Commissioner of Agriculture;
- Five employee's were permanently assigned vehicle with the justification as "full-time line duty law enforcement officer" and were stationed throughout the state;
- An additional five employees with permanently assigned vehicles listed "24/7 response to investigate potential disease outbreaks affecting the state" as their justification but appeared to be assigned to a KDA office in Franklin County;
- Four listed their justifications as "travels statewide to perform duties, while maintaining office responsibilities to their constituents" but also appeared to maintain an office in Franklin County; and
- The most common permanent vehicle assignment justification of "official work station is employee's home" was used 117 times, or 88 percent.

The four employees who listed their justifications as “travels statewide to perform duties, while maintaining office responsibilities to their constituents” seemed to be a questionable assignment of take home vehicles. All four employees were assigned to work daily in Franklin County and did not appear to work in the field performing inspections. Therefore, these assignments do not appear to be necessary and may be a possible violation of the following Finance Cabinet criteria: the employee’s official workstation must be his/her home residence and an employee does not go to an agency office more than once each week.

Not included on the justification list was various of executive staff that, interviews revealed, were assigned take home vehicles at some point during the former Commissioner’s tenure. According to interviews, several staff had their take home vehicles taken away when the former Commissioner decided to run for Lieutenant Governor. In a comparison of the 2010 and 2011 justification report that KDA provided to the Finance Cabinet, there were 11 employees that were still employed at KDA as of January 1, 2012, but are no longer assigned a state vehicle for take home purposes. In interviews, at least two of these employees stated that the assigned vehicles were a “benefit” of holding an executive position. Others stated that they did not use the vehicle for commuting and allowed their staff to use it for official KDA business purposes. One former employee stated that he used his assigned vehicle to commute between his home in Jefferson County to Franklin County. This employee was one of the KDA employees that was no longer on the 2011 justification report that was sent to the Finance Cabinet.

KDA unable to determine exact mileage

In addition, KDA did not appear to comply with the Finance Cabinet requirement that the vehicle be driven more than 10,000 miles per year. Based on the mileage provided by KDA to the Finance Cabinet in the 2011 justification report, 20 employees, or 15 percent of the 132 permanent vehicle assignments, did not have 10,000 miles driven annually. Even though the Administrative Branch Manager responsible for KDA fleet oversight knows the current system used by KDA cannot track the total mileage driven by an employee in all assigned vehicles, the justification report still provided the “official yearly mileage” for each employee.

Based on the “official yearly mileage” reported, 20 KDA employees did not meet the requirement that “the vehicle is driven more than 10,000 miles per year for official business,” as they drove less than the required 10,000 miles. This Administrative Branch Manager stated that the Fiance Cabinet was aware of the system’s limitation and has not questioned the vehicle assignments. Currently, KDA is working with their database vendor to improve the system’s reporting capabilities for each employee.

Though a substantial number of KDA employees are required to travel to perform their job duties, KDA management must closely scrutinize whether a sound justification exists to permanently assign vehicles to fifty percent of their staff. Not only is there a substantial initial cost to KDA for each vehicle purchased, but the continued costs of gasoline, insurance, and maintenance must also be considered.

Recommendations

We recommend that KDA ensure that a comparison of the cost to operate an agency fleet rather than lease vehicles through the Finance Cabinet be based on available actual data to ensure a fair and accurate evaluation of the KDA fleet's necessity.

We recommend KDA only request permanently assigned vehicles for those employees who fall within the permanently assigned vehicle requirements as set forth by the Finance Cabinet. KDA should review their current permanently assigned vehicle listing and ensure all of the Finance Cabinet's criteria are met and that it is necessary and reasonable for an employee to be permanently assigned a vehicle. KDA should ensure that the mileage for each employee is maintained accurately in the system so that this review is based on complete mileage information.

We also recommend KDA maintain a complete history of permanently assigned vehicles and the justifications that are submitted to the Finance Cabinet for approval. The justification for a permanent vehicle assignment should be sufficiently detailed for the Finance Cabinet to make an informed decision whether to approve the request. The information maintained should include all information pertinent to the employee, their job description, and work county, at a minimum. This information should be consolidated into a single, searchable database.

Finding 37: KDA exceeded its small purchase authority without initiating a contract.

KDA is required to follow the Kentucky Model Procurement Code, KRS Chapter 45A, for the procurement of goods and services. The procurement code is to provide increased economy in state procurement activities by fostering effective competition and to safeguard the quality and integrity of the procurement system. KRS 45A.100(3) states that the Finance Cabinet may grant to any state agency a small purchase authority in accordance with regulations promulgated by the Finance Cabinet. In 2007, KDA was granted an increase in its small purchase authority from $1,000 to $5,000 that allowed KDA to purchase items or services, up to $5,000, without having to competitively bid for those goods or services costing less than $5,000.

KDA procured services from a mobile car wash vendor that included services for hand washing cars, vans, sport utility vehicles, pick- up trucks, trailers, and other KDA vehicles and machinery. According to several employees interviewed, the car wash vendor was a relative of a former college basketball teammate of the former Commissioner. KDA paid the car wash vendor $5,855 in FY 2010 and $5,390 in FY 2011, which exceeded the KDA small purchase limit of $5,000. The Finance Cabinets' policy and procedures, FAP 111-55-00 (2) states, "procurement requirements shall not be parceled, split, divided, or scheduled over a period of time in order to subvert the intent of" the small purchase procedure for goods and non-professional services.

Also, according to FAP 111-55-00 (2), if the amount of the purchase is $5,000 or greater, the purchase must be approved by the Finance Cabinet and a Master Agreement for that service should be written and solicited for response. A Master Agreement for KDA would require two quotes for purchases from $1,000 to $2,999 and three quotes for purchases of $3,000 to $5,000.

Recommendations

We recommend that KDA follow all applicable statues and regulations concerning the purchase of goods and non-professional services. We recommend that KDA monitor all small purchases, whether through direct pay or Procard purchases, to ensure that they are not exceeding their small purchase authority by parceling, splitting, dividing, or scheduling payments over a period of time that may cause the $5,000 small purchase limit to be exceeded. If purchases exceed the $5,000 small purchase authority limit of KDA, the Finance Cabinet should be contacted to initiate a Master Agreement for solicitation.

Finding 38: KDA did not consistently report taxable income for the use of state vehicles, nor was any additional taxable income reported for employee benefits such as internet and cell phone costs.

The amounts reported by the KDA to the IRS as additional income to employees for employee benefits do not appear to be consistently or fully reported based on the employee benefits provided. KDA did not have policies related to employee benefit reporting even though KDA employees receive benefits related to vehicles, home internet costs, and the use of cell phones. Improper reporting of taxable income prevents KDA from fully complying with IRS reporting requirements.

According to guidance provided by the Finance Cabinet, "fringe benefits for government employees include, but are not limited to, personal use of government vehicles, personal use of cellular phones/pagers, meal reimbursement without overnight travel, moving expenses and certain uniform allowances. It also states that "[e]ach government agency in Kentucky is responsible for compliance with tax withholding and reporting requirements for its employees."

IRS Publication 15-B states, "[a]ny fringe benefit you provide is taxable and must be included in the recipient's pay unless the law specifically excludes it." The IRS Taxable Fringe Benefit Guide allows the use of the commuting valuation rule for assigned vehicles, but not for elected officers.

According to the Kentucky Personnel Cabinet, the annual lease valuation rule is used to determine the personal use value for state vehicles assigned to elected officers. This method requires the elected officer to maintain records of each time the vehicle is used for either business or personal purposes. The rate of personal miles to total miles is multiplied by the vehicle's fair market value. This amount should be added as income to the elected officer's W-2. If personal or business records are not kept, the entire use of the vehicle could be considered by the IRS as personal unless proven otherwise by the employee.

The only control in place related to KDA reporting employee benefits is that the timesheets used by KDA under Kentucky's previous time reporting system contained a section to report the number of one-way trips in which a state vehicle was used to commute from home to the work site and from the work site to home. This section also had a space available for reporting the dollar amount of the one-way trips, which will be the amount of taxable income to be added to the employee's W-2. KDA has no other policy information as to how KDA should report or review this information.

The current timesheet for Kentucky's new time reporting system, effective April 2011, does not contain a commuting calculation section, but employees can enter the number of one-way trips that were personal and use the code TRIP and the taxable benefit is calculated in the system. When asked if this information is reviewed for reasonableness, KDA payroll staff stated that they are not informed as to which employees have assigned vehicles.

Under the previous time reporting system, KDA staff were able to provide the annual amounts reported as personal use of a state vehicle and added to the employee's gross income and taxed as a fringe benefit. This information could not be provided after April 2011 when a new time reporting system began for Kentucky employees. The following table documents the amounts that were added to the employee's taxable income reports.

Table 20: Amounts Reported as Taxable Income for the Use of Assigned State Vehicles

Calendar Year	Total Amount of Taxable Income for Assigned Vehicles	Number of Employees Reporting
2008	$10,131	48
2009	13,553	50
2010	14,561	58
2011 (Until April 2011)	$3,756	39

Source: Auditor of Public Accounts based on information provided by the Kentucky Department of Agriculture.

Considering that approximately 132 KDA employees are assigned state vehicles, the number of employees reporting personal use does not appear to be complete or consistent because the annual amounts reported ranged from $3 to $738. As an example of inconsistency, a former employee was assigned a state vehicle during this time period used primarily only for commuting from Jefferson County to the Frankfort KDA offices. Commuting between home and work is considered personal use by the IRS; however, these trips were not reported on his timesheets as personal mileage and no additional income for this benefit was added to the former employee’s income. In addition, several of the employees reporting personal use were not assigned vehicles, but had only temporarily used a state vehicle assigned to KDA.

The amounts listed in the previous table also do not include any information for the former KDA Commissioner. In 2007, the Kentucky Personnel Cabinet requested the number of personal miles for the vehicle assigned to the former KDA Commissioner. The request was sent back with no personal miles provided but it was signed by the former Commissioner. KDA staff typed a statement on the form that “[w]e are unable to determine any personal use of the subject vehicle for the timeframe set out.” According to KDA staff, the Personnel Cabinet told them that they had done all they could and that a Personnel Cabinet director would look into this further.

In 2010, financial audits conducted by the APA noted the former Commissioner’s lack of compliance with reporting income related to the personal use of state vehicles. Around this time, KDA payroll was given several completed forms to be submitted to the Personnel Cabinet that documented the personal mileage for the former KDA Commissioner for calendar years 2008 and 2009. For these years, the former Commissioner’s W-2 reports were amended to add $306.55 and $188.63, respectively, to his income amounts. The former Commissioner did begin reporting personal miles to the Personnel Cabinet, but KDA staff were not able to provide the amount of income added to his W-2; auditors, however, were told the amounts for 2010 and 2011 were not considered significant.

According to KDA officials, personal mileage is the only taxable employee benefit being added to the KDA employee’s taxable income. However, employees are receiving benefits related to home internet costs and the use of cell phones. Internet service and cell phones can be used for both work and personal benefit, but there is no established method to report the personal portion as taxable income. See Findings 31 and 41 related to internet costs and cell phones for more information on these benefits.

Related to KDA's payment for internet service, KDA reimbursed some employees through a travel voucher and some employees get their service paid directly by KDA to the internet vendor. For costs reimbursed through the use of a voucher, KDA staff stated that the Finance Cabinet had not established a subcode that could be used for tracking this expense so that it can be reported as additional income to the employee. If internet services are directly paid to the vendor, the system is also not tracking the benefits to each employee. In addition, there is no policy for calculating how much of this service should be considered for work or personal use.

Cell phones are provided to approximately 181 employees. There are different types of phones and different usage plans provided to these employees. However, there is no policy regarding how a taxable benefit should be determined based on the type of cell phones assigned to the employees.

It does not appear that KDA is providing consistent direction as to how additional income for employee benefits should be reported. Due to KDA's lack of guidance and review procedures in this area, some KDA employees may be in compliance with IRS regulations while others may not be paying the appropriate amount of taxes for employee benefits.

Recommendations

We recommend that KDA establish a policy to address how the personal use of state vehicles will be tracked so that all KDA employees with state vehicles will be expected to report a taxable benefit. A consistent reporting method should be adopted to ensure that all employees are in compliance with IRS regulations. We also recommend that a method of reporting the taxable benefit related to other employee benefits, such as internet services and cell phones, be developed and documented for each person receiving this benefit. The reporting method should be explained to each employee so that each is aware of the issues when receiving this benefit. The amount reported as additional taxable income should be reviewed to ensure that all applicable employees are reporting for benefits consistently. We further recommend that KDA's elected Commissioner comply with the IRS and Kentucky Personnel Cabinet to track the business use of assigned vehicles so that the annual lease valuation rule can be used to determine the amount of additional income to be reported.

Finding 39: Procard procedures should be strengthened.

A state-issued credit card, called a Procard, is provided to state agency employees authorized to have one issued to them, based on their need to purchase business-related goods and services for the agency. Although the card is issued in the name of the employee, it is considered state property and should be used for agency purchases only. Cardholders are expected to comply with internal control procedures for Procard use established by their agency and with the policies and procedures of the Finance Cabinet for Procard use. In the case of the KDA, this includes turning receipts in to the KDA Procard Program Administrator, entering purpose and description for each transaction via the Vendor Information Management website, and submitting transactions for KDA supervisor approval via the website.

When a KDA employee first receives his or her Procard, the cardholder's supervisor must provide a written list of specific items/payments that may be purchased by the cardholder without prior supervisor approval. All purchases not covered by this list, known as the Procard Certification form, must have approval from the supervisor prior to the purchase. In addition, supervisors indicate approval for all actual purchases after the fact through the Vendor Information Management website.

Auditors judgmentally sampled and reviewed Procard expenditures made between July 1, 2007 and December 31, 2011 to determine compliance with KDA policies, the presence of required documentation, and the reasonableness of expenditures. While the overall conclusion of this review was that, for the period under examination, the KDA procurement process generally operated in an adequate manner, the auditors did find four areas for potential improvement.

First, while each purchase made received an approval by the employee's supervisor after the fact, the pre-approval process employed during the audit period seemed to be ineffective at those times when it relied solely on the Procard Certification form. The forms reviewed as part of our sample often seemed excessively broad, to the point of being vague in what type of purchases cardholders were allowed to make without the knowledge of their supervisor. While it appears cardholders did not take advantage of this situation, the possibility exists for future cardholders to do so. Also, numerous cardholders had "office supplies" included as pre-approved items on the Procard Certification form. This situation could lead to a redundancy in purchasing by individuals within the same office or division.

A second area of concern noted is the issuance of blanket procurement approvals for KDA events. The first problem with blanket approvals is that, instead of getting approval for individual purchases, certain KDA staff members cite these approvals as their pre-approval for all expenditures related to a given event. The second problem with blanket approvals is that staff from both the KDA's Division of Personnel and Budget and the Division of Agriculture Marketing and Agribusiness Recruitment confirmed that they are neither provided, nor are requested to provide, a running total dollar amount that is expended prior to an event, or after the event. Monitoring expenditures related to an event is an excellent planning and budgeting tool for future events.

A third area of concern involves the need for additional written support for certain expenditures. While the auditors were able to confirm the justification or business purpose of all expenditures reviewed through follow-up communication with either the KDA cardholder or the Procard Program Administrator, a detailed description of each item purchased is required to be on file and submitted with the actual receipt. For example, in August 2008, a cardholder within the Division of Show and Fair Promotion made a $750 purchase of custom hand-made cedar boxes, four per type of livestock, for Commissioner's scholarship awards; however, a list of recipients was not submitted as supporting documentation for the expenditure.

A fourth area noted involves repetitive purchasing of similar nonperishable items by cardholders within the Office of Agricultural Marketing and Product Promotion for each event. For example, the same cardholder purchased a fold-up table and chairs in October 2011 for the Incredible Food Show just two months after purchasing a table to be placed outside the Commissioner's Office at the Kentucky State Fair.

When asked why it appears the same type of purchases are being made for each event, a staff member from the Division of Agriculture Marketing and Agribusiness Recruitment presented several reasons. First, because the items used to stage these special events often fall below the $500 threshold to be included on KDA's asset listing, they are not tracked by KDA staff. Second, the items are not logged out by an employee when taken out of storage. The items bought for one event are often not in storage when the next event occurs, causing the staff to purchase replacement items. If the staff knew who had used the item last, then he or she could be approached about the location of the item. Third, small inventory items for events are stored at two different locations.

It was suggested by the auditor to inventory all the items available for use during special events, keep the items in one location, and log the items out by the appropriate employee whenever taken out of storage. In response to this suggestion, the KDA staff member developed the "State Fair Small Inventory Check Out Form" which, once fully implemented, can assist with the monitoring of items used at various events and, hopefully, prevent future repetitive purchases due to improper planning and inventory control. A copy of the form can be Exhibit 9.

Recommendations

We recommend that KDA either require the items entered on the Procard Certification form to be described with more specificity, or modify the process for pre-approving items to be purchased.

We recommend that KDA limit the use of blanket approvals in an effort to better monitor the amounts spent at each special event.

We recommend that KDA staff always provide detailed documentation for all purchases. When the documentation provided by the vendor lacks details, staff should provide additional descriptions and provide justification for the purchase.

We recommend that KDA list and tag the items maintained in inventory for special events, such as the state fair. KDA should consider moving all the items into one location for better control. KDA should also fully implement their plans to use the "State Fair Small Inventory Check Out Form" to monitor who has possession of the items.

Finding 40: KDA lacked a written policy regarding documentation for livestock show payments and certain administrative processes.

KDA had no written policy for processing prize money and judge fees for livestock shows. KDA did not maintain application/registration forms of livestock show judges or for show participants. Additionally, KDA had no payment documentation to support fees payable to the judges for their services or for the livestock show winners.

The livestock show judges and the show participants were either not required to complete an application/registration form or this documentation was not maintained by KDA. KDA did maintain certain documentation reviewed by auditors that included information related to judges and show participants, including names, mailing addresses, and amount paid for fee or prize. It could not be determined from the documentation maintained by KDA whether the information was compiled at the time of the livestock show or subsequent to the event. The application/registration form would provide additional documentation that the judges and participants were actually in attendance on the days of the livestock shows.

KDA has no process in place to document that livestock judges have no conflicts of interest when judging a livestock show, and that they have the appropriate qualifications to be a judge. Without a documented process in place, it cannot be determined whether a judge is either qualified or independent in judging a specific show. Due to the lack of documentation, it could not be determined whether an independent party acted as the judge.

Further, KDA did not maintain a schedule of approved judges' fees for livestock shows, or of prize amounts for winning participates. A review of payments identified that the judges and winning participants were paid varying amounts. Documentation was not maintained that identified the reason payment amounts varied.

Without a formal policy to provide guidance for fees paid to judges and prizes paid to winning participants, it cannot be determined when a conflict of interest will occur when a judge is taking part in a show where their own children or family members are participating. Furthermore, without a formalized fee structure in place, one cannot determine whether an appropriate amount was paid to the judge or winning participant.

Recommendations

We recommend KDA develop a policy that, at a minimum, requires uniform livestock application/registration forms to be completed by all judges of and participants in livestock shows. We further recommend a schedule be developed specifying judges' fees and the prize amounts paid to winning participants. If there is a need to deviate from the fee and prize money schedule, the payments should be submitted and approved by KDA prior to the show. In addition, we recommend the judge's application be reviewed prior to a show, if feasible, to ensure the judges are qualified and free of conflicts of interest. The judge's application form should include a statement stating that by signing the application the judge is free of conflicts of interest, or will disclose in writing any potential conflict prior to the event.

Finding 41: KDA did not maintain records to document the disposal of returned cell phones in compliance with Surplus Property regulations.

KDA did not have a policy or a documented method for disposing of returned cell phones. KDA staff stated that no records were maintained because the phones were obsolete. However, the Division of Surplus Property within the Finance Cabinet should have been contacted to approve the disposal of state property. According to FAP 220-19-00, the Division of Surplus Property has the authority to declare and dispose of surplus property. KDA is working to improve the management of cell phones and should determine which of the allowable methods the agency will use to dispose of cell phones to comply with this policy.

According to FAP 220-19-00, the "Finance and Administration Cabinet, Division of Surplus Property shall dispose of state-owned property declared to be surplus to the needs of the Commonwealth, unless authority to declare and dispose of surplus property has been delegated to an agency head by the secretary of Finance and Administration Cabinet." The policy states that the disposal of personal property shall be one of the following methods:

- Intra-agency or inter-agency transfer;
- Use of the property as a trade in for the procurement of a similar item;
- Transfer to a local government unit within the Commonwealth;
- Transfer to a nonprofit organization that is an approved entity as required by FAP 220-20-00;
- Sale to the general public using either the sealed bid or auction method;
- Disposal in accordance with applicable state and federal waste management laws and regulations if property is not suitable for transfer, trade, or sale; or
- Other method as determined by the Director of the Division of Surplus Property, in writing, to be in the best interest of the Commonwealth.

Though no records on the disposal of cell phones were maintained, interviews with staff indicated that KDA typically kept the returned phones and gave them to individuals that needed phones. According to KDA staff, the Finance Cabinet and the phone company were notified about the situation and told KDA to donate them or give them away because the phones were of no use to them.

Currently, KDA has an agreement with AT&T for approximately 181 cell phones. The phone plans range from a minimal usage plan at a cost of $10 per month with limited minutes to a plan for unlimited minutes and data usage. Of the current phones, 40 are estimated to be Blackberries that are being upgraded to iPhones. The plan to dispose of old, damaged, or upgraded phones is to collect these and, at some point, donate them to a military charity.

According to the Division of Surplus Property staff, it is not allowable to donate old cell phones to someone for personal use because the items are state property. KDA should have a documented policy and any disposal should be approved by the Division of Surplus Property because KDA was not delegated authority to dispose of surplus property. Any plan to dispose of property must be documented and approved prior to the action. The value of the item is not the issue because even items donated to an agency should be disposed of according to this method. Once an item is provided or given to a state agency, it is considered state property and should be disposed of according to the Division of Surplus Property.

Recommendations We recommend that KDA comply with FAP 220-19-00 and maintain documentation related to cell phones returned due to damage, termination of employment, or obsolescence, and request approval for disposing of the property through one of Finance Cabinet’s prescribed methods. If donation to a charity is the desired method for disposal, KDA should request the approval of this method and ensure that the selected charity is an approved nonprofit charity according to established Finance Cabinet policies.

EXHIBITS

SASDA 2008
Giveaways

	Commissioner's Gifts	Price	Quantity	Total Price	o/h	paid
Monday 6/9	Wooden Hats	$ 325.00	15	$ 4,875.00		
	Alltech Bourbon	Donated	25	n/c		n/c
Tuesday 6/10	Guns and cases		25	$ 11,225.25		
	Maker's Mark Bourbon	Donated	17	n/c		n/c
Wednesday 6/11	Silver Plates from Downs	$ 100.00	17	$ 1,500.00		
Thursday 6/12	Knives		52	$ 4,678.00		ck
Session Gifts for Comm.	Cigar Boxes (KY Gentleman)	$ 17.00	50	$ 850.00		
	Buffalo Trace Bourbon	Donated	17	n/c		n/c
	Barn Books	Donated	17	n/c		n/c
Session Door Prizes	UK books (door prizes)	$ 20.02	5	$ 100.10	5	14-May
(Commissioners only)	Broadbent Country Hams-cert dp		4	$ 230.91	4	5/6 ck 1009
Speakers gifts	UK books	$ 20.02	15	$ 300.30	15	14-May
General Nightly Gifts						
Monday 6/9	Boxes of Candy	$ 3.00	100	$ 300.00		ck 1035
	Mugs	$ 9.05	150	$ 1,356.72		
	John Conti		300	$ 167.45	300	5/22 ck
Tuesday 6/10	Gourmet apples	$ 6.00	150	$ 900.00		
Wednesday 6/11	Ruth Hunt candy box	$ 6.55	100	$ 655.00		
Thursday 6/12	Ale 8-1 and others basket = popcorn	$ 3.00	100	$ 300.00		
	(popcorn)		108		108	14-May
Everynight/Every room	2 bottles of Water	$ 0.24	1000	$ 240.00		
Registration Duffel	100 Men's Duffel Bags	$ 12.00	100	$ 1,200.00	100	on hand
(and misc. items)	Portfolio	$ 13.00	100	$ 1,300.00	100	21-May
	tire gauge	$ 2.09	100	$ 209.00	100	on hand
	golf ball	KDDC			100	5/21/2008
	50 Women's Duffel Bags	$ 11.00	50	$ 550.00	50	on hand
	Soy Lotions		50	$ 379.00	50	5/6 ck 1008
	Tailgating Cookbook	$ 15.00	50	$ 750.00	50	5/15 ck 1015
	glass nail file	KDDC	60		60	5/21/2008
	christmas ornament	KDDC	48		48	5/21/2008
For all duffels	Umbrellas	$ 6.60	150	$ 1,030.00		o/h
	Ky Proud Hats	$ 5.25	200	$ 1,050.00	200	o/h
	Lip Balm	Animal Health	150	n/c	150	n/c
	First Aid Kits	$ 1.55	150	$ 387.50		o/h
	Water Bottle Holders	$ 2.29	150	$ 343.50	150	o/h
	Hand Sanitizer (Sam's)	$ 0.31	168	$ 52.00	168	o/h
	Chip Clips	KP	200	n/c	200	n/c
	carbiners	Animal Health	200	n/c	200	n/c
	Ink Pens	KP	500	n/c	500	n/c
	Cork Screws	Donated	200	n/c		n/c
	jar grips	KP	200	n/c	200	n/c
	key chains	KP	200	n/c	200	n/c

SASDA 2008
Giveaways

	lapel pins	KP	200	n/c	200	n/c
	pencils	KP	200	n/c	200	n/c
	stress balls	KP	200	n/c	200	n/c
	KP round pins	KP	200	n/c	200	n/c
	gum				150	o/h
	2 pk tylenol				150	o/h
	Horse hat tack	KDDC	216		216	5/21/2008
	Ky Magnet	KDDC	150		150	5/21/2008
	Ky post cards	KDDC	1650		1650	5/21/2008
Spouse's bus bags	bag	KDDC	50		50	5/21/2008
	hand sanitizer	AH	50	n/c	50	n/c
	chap sticks	AH	50	n/c	50	n/c
	Mary Kay samples (Danita)					o/h
	small tissue packs	$ 0.27	50	$ 12.78	50	5/8 cr card
	Items from Fayette Mall					n/c
	jar candles	$ 1.45	48	$ 34.80	24	ck 1027
	Gift Cards for Shopping	$50.00 (?)	50	$ 2,500.00		
Spouse door prizes						
	Horse Pins	$ 14.00	8	$ 112.00	8	5/6 cr card
	cutting boards	$ 16.00	4	$ 64.00	4	5/6 cr card
	Buffalo trace aprons	$ 18.00	2	$ 36.00	2	5/6 cr card
	Bybee Mixing Bowl & etc	n/c	1		1	n/a
	Bybee Pie Plate & etc	n/c	1		1	n/a
	metal tube wine openers	n/c	5	n/c	5	n/a
	BBQ sets (KFEC)	n/c	2	$ 2.00	2	n/a
	RB larger candles	$ 4.50	12	$ 54.00	12	ck 1027
	Elmwood Teas	$ 4.31	24	$ 103.53	24	5/15 ck 1013
	Ottenheim Heritage Cookbook	Eunice	2	n/c	2	15-May
General Door Prizes	wine bags	$ 3.40	50	$ 170.00		o/h
	Jean Farris Winery		48	$ 1,176.00	48	6/2/2008
	Elk Creek Vineyards		48	$ 489.12	48	6/2/2008
	Chrisman's Mill		48	$ 458.59	48	6/2/2008
	Rebecca Grace Baskets	$ 15.00	6	$ 90.00	6	ck 1027
	Chubby Bubby Gift Basket	$ 12.56	12	$ 150.76	12	5/7 ck 1010
	Golf Balls (Buffalo Trace)	$ 16.50	2	$ 33.00	2	5/6 cr card
	Barn Books (others donated)	$ 25.00	5	$ 125.00		o/h
	Ky Smokin Sauce baskets	$ 4.18	12	$ 50.16	12	5/7 ck 1010
	Bourbon Barrell baskets	$ 14.70	12	$ 176.00	12	5/2 ck 1007
	Rebecca Grace candles	$ 4.50	12	$ 54.00	12	ck 1027
	Churchill Candy Tins	$ 7.70	12	$ 92.50		
	Bauer's Candy	$ 2.85	12	$ 34.20		
	Roger's Chocolate popcorn	$ 7.86	12	$ 94.28	12	5/8 ck 1011
	Pancake-Weis PC mix, JB syrup,BB Baco	$ 8.35	12	$ 100.20	12	5/6 & 5/7
	Corn Hole Games	$ 100.00	10	$ 1,000.00		
	West Virginia gift certificate				1	5/9 n/c
	Maryland Gift cert				1	5/9 n/c
	Florida gift cert				2	5/14 n/c
	Mississippi gift cert				1	5/14 n/c

SASDA 2008
Giveaways

	Oklahoma gift cert				1	5/14 n/c
	South Carolina gift cert				1	5/21 n/c
(need apple butter in $)	Bisc-weis bis, EW apple butter, ham sli	4.12 to date	12	$ 49.44	12	5/6/2007
	Elmwood Inn teas	$ 8.00	12	$ 96.00		o/h
	BBQ Sauce mix	$ 24.03	12	$ 288.36	12	5/7 ck 1010
Children's Gifts	Back Pack	$ 5.00	25	$ 125.00		o/h
	Pasture Patties	$ 3.00	15	$ 45.00		
	Mr. Dogwood Books	$ 8.00	15	$ 120.00		pd
	4 pack crayons	KP	25	$ -	25	n/c
	B is for Bluegrass	$ 12.95	20	$ 258.92	20	5/7 cr card
	Horse park pencils/erasers	$ 0.50	20	$ 10.00		pd
	dairy coloring books	n/c	20	n/c	20	n/c
	Corvette matchbox				3	pd
	Ky pen	KDDC	20		20	5/21/2008
	Ky wildcat	KDDC	20		20	5/21/2008
	Pencil sharpener	KDDC	36		36	5/21/2008
	Ky horse head puzzle	KDDC	24		24	5/21/2008
	sm assorted horses	KDDC	48		48	5/21/2008
Extras	Candy Bars		200	$ 98.00	200	6/3/2008
	Shape of Kentucky chocolates	$ 0.25	200	$ 50.00	200	6/3/2008
	horsehead choc suckers	$ 0.89	200	$ 178.00	200	6/3/2008
	chocolate jockey caps	$ 0.69	200	$ 138.00	200	6/3/2008
	medallion chocolates	$ 0.39	200	$ 78.00	200	6/3/2008
	chocolate shipping costs			$ 78.68		6/3/2008
	Blue Mondays	$ 0.42	120	$ 50.00		
	Ruth Hunt candies			$ 1,199.43		ck 1040
	no bakes			$ 58.87		11/3/1902
	ky sugar cookies		480	$ 160.00		160
	Ky sugar candy sticks	$ 0.13	360	$ 45.00		
	Crème candies		5 lbs	$ 31.25		
	Badges	$ 1.99	200	$ 538.00		o/h
	churchill bracelets	$ 1.59	200	$ 318.00	200	5/21/2008
	duffle tags	$ 0.81	250	$ 202.50		o/h
	flashlights	$ 3.19	150	$ 478.50	150	5/21/2008
Hospitality room	cavier	$ 40.20	2	$ 81.00	2	5/7 ck 1010
	no bake cookies	$ 26.76	2 cs	$ 53.52		
	Ale 8 salsa	$ 38.64	4 cs	$ 154.56	4 cs	5/7 ck 1010
	Chocolate pretzels/Oreos		10 lbs	$ 63.00		
	spicy pretzels	$ 29.16	2 cs	$ 58.32	2 cs	5/7 ck 1010
	blue chips	$ 23.00	2 cs	$ 46.00		
	queso dip	$ 38.00	1 cs	$ 38.00		
				$ 47,332.00		


04/24/2012


Kentucky
Proud.
REP 66

U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives

OMB No. 1140-0020

Firearms Transaction Record Part I - Over-the-Counter Transfer

WARNING: You may not receive a firearm if prohibited by Federal or State Law. The information you provide will be used to determine whether you are prohibited under law from receiving a firearm. Certain violations of the Gun Control Act are punishable by up to 10 years imprisonment and/or up to a $250,000 fine.

Transferor's Transaction Serial Number

Prepare in original only. All entries must be in ink. Read the Important Notices, Instructions and Definitions on this form. "Please Print."

Section A - Must Be Completed Personally By Transferee (Buyer)

1. Transferee's Full Name

Last Name	First Name	Middle Name *(If no middle name state "NMN")*
Farmer	Richard	Dwight II

2. Current Residence Address **(Cannot be a post office box.)**

Number and Street Address	City	County	State	Zip Code
	Frankfort	Franklin	Ky	40601

3. Place of Birth U.S. City/State	Foreign Country	4. Height	5. Weight	6. Gender	7. Birth Date Month	Day	Year
		Ft. In.		Male ☑ Female ☐			

8. Social Security Number *(Optional, but will help prevent misidentification.)*

9. Unique Personal Identification Number *(UPIN)* if applicable *(See Instruction to Transferor 6.)*

10. Race *(Ethnicity) (Check one or more boxes.)*

☐ American Indian or Alaska Native ☐ Black or African American ☐ Native Hawaiian or Other Pacific Islander
☐ Hispanic or Latino ☐ Asian ☑ White

11. Answer questions 11.a. through 12 by writing *"yes"* or *"no"* in the boxes to the right of the questions.

a. Are you the actual buyer of the firearm(s) listed on this form? **Warning: You are not the actual buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual buyer, the dealer cannot transfer the firearm(s) to you.** *(See Important Notice 1 for actual buyer definition and examples.)*	Yes
b. Are you under indictment or information in any court for a **felony**, or any other crime, for which the judge could imprison you for more than one year? *(An information is a formal accusation of a crime by a prosecutor. See Definition 3.)*	No
c. Have you ever been convicted in any court of a **felony**, or any other crime, for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation? *(See Important Notice 4, Exception 1.)*	No
d. Are you a fugitive from justice?	No
e. Are you an unlawful user of, or addicted to, marijuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance?	No
f. Have you ever been adjudicated mentally defective *(which includes a determination by a court, board, commission, or other lawful authority that you are a danger to yourself or to others or are incompetent to manage your own affairs)* **OR** have you ever been committed to a mental institution? *(See Important Notice #4 and Definitions #5 and #6)*	No
g. Have you been discharged from the Armed Forces under **dishonorable** conditions?	No
h. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner? *(See Important Notice 5.)*	No
i. Have you ever been convicted in any court of a misdemeanor crime of domestic violence? *(See Important Notice 4, Exception 1 and Definition 4.)*	No
j. Have you ever renounced your United States citizenship?	No
k. Are you an alien **illegally** in the United States?	No
l. Are you a nonimmigrant alien? *(See Definition 8.) If you answered "no" to this question, you are not required to respond to question 12.*	No
12. If you answered "yes" to question 11.l., do you fall within any of the exceptions set forth in Important Notice 4, Exception 2? (e.g., valid State hunting license.) **(If "yes," the licensee must complete question 20c.)**	No

13. What is your State of residence *(if any)*? Kentucky *(See Definition 7. If you are not a citizen of the United States, you only have a State of residence if you have resided in a State for at least 90 continuous days immediately prior to the date of this sale.)*

14. What is your country of citizenship? *(List/check more than one, if applicable.)*
☑ United States of America ☐ Other *(Specify)* ________

15. If you are not a citizen of the United States, what is your U.S.-issued alien number or admission number?

Note: Previous Editions Are Obsolete

ATF Form 4473 (5300.9) Part I
Revised May 2007

I certify that the answers to Section A are true and correct. I am aware that ATF Form 4473 contains Important Notices, Instructions, and Definitions. I understand that answering *"yes"* to question 11.a. if I am not the actual buyer of the firearm is a crime punishable as a felony. I understand that a person who answers *"yes"* to any of the questions 11.b. through 11.k. is prohibited from purchasing or receiving a firearm. I understand that a person who answers *"yes"* to question 11.l. is prohibited from purchasing or receiving a firearm, unless the person also answers "yes" to question 12. I also understand that making any false oral or written statement, or exhibiting any false or misrepresented identification with respect to this transaction, is a crime punishable as a felony. I further understand that the repetitive purchase of firearms for the purpose of resale for livelihood and profit without a Federal firearms license is a violation of law. *(See Important Notice 6.)*

16. Transferee's/Buyer's Signature: Richard Wright Farmer II

17. Certification Date: 6/4/08

Section B - Must Be Completed By Transferor (Seller)

18. Type of firearm(s) to be transferred:
☐ Handgun ☑ Long Gun ☐ Both

19. Location of sale if at a gun show or other qualifying event. *(See Instruction to Transferor 15.)*
______________________ *(City, State)*

20a. Identification *(e.g., driver's license or other valid government-issued photo identification.)* *(See Instruction to Transferor 1.)*

Type of Identification	Number on Identification	Expiration Date of Identification *(if any)* Month	Day	Year
		09	25	2010

20b. **Aliens only:** Type and dates of additional required identification *(e.g., utility bills or lease agreements.)* *(See Instruction to Transferor 2.)*

Type of Identification	Date(s)

20c. **Nonimmigrant aliens only:** Type of documentation showing an exception to the nonimmigrant alien prohibition *(e.g., hunting license/permit; waiver.)* *(See Instruction to Transferor 3.)*

Question 21, 22, or 23 Must Be Completed Prior To The Transfer Of The Firearm(s) *(See Instructions to Transferor 5-8.)*

21a. The transferee's identifying information in Section A was transmitted to NICS or the appropriate State agency on: 6-4-08 *(Date)*

21b. The NICS or State transaction number *(if provided)* was:

21c. The response initially provided by NICS or the appropriate State agency was:
☑ Proceed ☐ Delayed
☐ Denied *[The firearm(s) may be transferred on ________ (MDI date provided by NICS) if State law permits (optional)]*
☐ Cancelled

21d. If initial NICS or State response was *"Delayed,"* the following response was received from NICS or the appropriate State agency:
☐ Proceed ________ *(date)*
☐ Denied ________ *(date)*
☐ Cancelled ________ *(date)*
☐ No resolution was provided within 3 business days.

21e. *(Complete if applicable.)* After the firearm was transferred, the following response was received from NICS or the appropriate State agency on: ________ *(date).* ☐ Proceed ☐ Denied ☐ Cancelled

21f. The name and Brady identification number of the NICS examiner *(optional)* ________ *(name)* / ________ *(number)*

22. ☐ No NICS check was required because the transfer involved only NFA firearm(s). *(See Instruction to Transferor 8.)*

23. ☐ No NICS check was required because the buyer has a valid permit from the State where the transfer is to take place which qualifies as an exemption to NICS *(See Instruction to Transferor 8.)*

State Permit Type	Date of Issuance *(if any)*	Expiration Date *(if any)*	Permit Number *(if any)*

Section C

If the transfer of the firearm(s) takes place on a different day from the date that the transferee *(buyer)* signed Section A, the transferee must complete Section C immediately prior to the transfer of the firearm(s). *(See Instruction to Transferee 3 & Instruction to Transferor 9.)*

I certify that the answers I provided to the questions in Section A of this form are still true and correct.

24. Transferee's/Buyer's Signature **25. Recertification Date**

Section D (See Instructions to Transferor 10-11.)

26. Manufacturer and/or Importer	27. Model	28. Serial Number	29. Type *(pistol, revolver, rifle, shotgun, etc.)*	30. Caliber or Gauge
Remington	770	71450032	rifle	300 Win
Remington	770	71450002	rifle	270
Remington	770	71450008	rifle	270

ATF Form 4473 (5300.9) Part I
Revised May 2007

I certify that the answers to Section A are true and correct. I am aware that ATF Form 4473 contains Important Notices, Instructions, and Definitions. I understand that answering *"yes"* to question 11.a. if I am not the actual buyer of the firearm is a crime punishable as a felony. I understand that a person who answers *"yes"* to any of the questions 11.b. through 11.k. is prohibited from purchasing or receiving a firearm. I understand that a person who answers *"yes"* to question 11.l. is prohibited from purchasing or receiving a firearm, unless the person also answers "yes" to question 12. I also understand that making any false oral or written statement, or exhibiting any false or misrepresented identification with respect to this transaction, is a crime punishable as a felony. I further understand that the repetitive purchase of firearms for the purpose of resale for livelihood and profit without a Federal firearms license is a violation of law. ***(See Important Notice 6.)***

16. Transferee's/Buyer's Signature	17. Certification Date

Section B - Must Be Completed By Transferor (Seller)

18. Type of firearm(s) to be transferred:

☐ Handgun ☐ Long Gun ☐ Both

19. Location of sale if at a gun show or other qualifying event. *(See Instruction to Transferor 15.)*

________________ *(City, State)*

20a. Identification *(e.g., driver's license or other valid government-issued photo identification.)* *(See Instruction to Transferor 1.)*

Type of Identification	Number on Identification	Expiration Date of Identification *(if any)* Month	Day	Year

20b. **Aliens only:** Type and dates of additional required identification *(e.g., utility bills or lease agreements.)* *(See Instruction to Transferor 2.)*

Type of Identification	Date(s)

20c. **Nonimmigrant aliens only:** Type of documentation showing an exception to the nonimmigrant alien prohibition *(e.g., hunting license/permit; waiver.)* *(See Instruction to Transferor 3.)*

Question 21, 22, or 23 Must Be Completed Prior To The Transfer Of The Firearm(s) *(See Instructions to Transferor 5-8.)*

21a. The transferee's identifying information in Section A was transmitted to NICS or the appropriate State agency on: ________________ *(Date)*

21b. The NICS or State transaction number *(if provided)* was:

21c. The response initially provided by NICS or the appropriate State agency was:

☐ Proceed
☐ Denied
☐ Cancelled
☐ Delayed *[The firearm(s) may be transferred on ____________ (MDI date provided by NICS) if State law permits (optional)]*

21d. If initial NICS or State response was *"Delayed,"* the following response was received from NICS or the appropriate State agency:

☐ Proceed ____________ *(date)*
☐ Denied ____________ *(date)*
☐ Cancelled ____________ *(date)*
☐ No resolution was provided within 3 business days.

21e. *(Complete if applicable.)* After the firearm was transferred, the following response was received from NICS or the appropriate State agency on: ____________ *(date)*. ☐ Proceed ☐ Denied ☐ Cancelled

21f. The name and Brady identification number of the NICS examiner *(optional)* ____________ *(name)* / ____________ *(number)*

22. ☐ No NICS check was required because the transfer involved only NFA firearm(s). *(See Instruction to Transferor 8.)*

23. ☐ No NICS check was required because the buyer has a valid permit from the State where the transfer is to take place which qualifies as an exemption to NICS *(See Instruction to Transferor 8.)*

State Permit Type	Date of Issuance *(if any)*	Expiration Date *(if any)*	Permit Number *(if any)*

Section C

If the transfer of the firearm(s) takes place on a different day from the date that the transferee *(buyer)* signed Section A, the transferee must complete Section C immediately prior to the transfer of the firearm(s). *(See Instruction to Transferee 3 & Instruction to Transferor 9.)*

I certify that the answers I provided to the questions in Section A of this form are still true and correct.

24. Transferee's/Buyer's Signature	**25. Recertification Date**

Section D (See Instructions to Transferor 10-11.)

26. Manufacturer and/or Importer	27. Model	28. Serial Number	29. Type *(pistol, revolver, rifle, shotgun, etc.)*	30. Caliber or Gauge
Remington	770	71450019	rifle	243
Remington	770	71450023	rifle	243
Remington	770	71450020	rifle	308

ATF Form 4473 (5300.9) Part I
Revised May 2007

I certify that the answers to Section A are true and correct. I am aware that ATF Form 4473 contains Important Notices, Instructions, and Definitions. I understand that answering *"yes"* to question 11.a. if I am not the actual buyer of the firearm is a crime punishable as a felony. I understand that a person who answers *"yes"* to any of the questions 11.b. through 11.k. is prohibited from purchasing or receiving a firearm. I understand that a person who answers *"yes"* to question 11.l. is prohibited from purchasing or receiving a firearm, unless the person also answers "yes" to question 12. I also understand that making any false oral or written statement, or exhibiting any false or misrepresented identification with respect to this transaction, is a crime punishable as a felony. I further understand that the repetitive purchase of firearms for the purpose of resale for livelihood and profit without a Federal firearms license is a violation of law. *(See Important Notice 6.)*

16. Transferee's/Buyer's Signature | 17. Certification Date

Section B - Must Be Completed By Transferor (Seller)

18. Type of firearm(s) to be transferred:
☐ Handgun ☐ Long Gun ☐ Both

19. Location of sale if at a gun show or other qualifying event. *(See Instruction to Transferor 15.)*
______________ *(City, State)*

20a. Identification *(e.g., driver's license or other valid government-issued photo identification.) (See Instruction to Transferor 1.)*

Type of Identification	Number on Identification	Expiration Date of Identification *(if any)* Month	Day	Year

20b. **Aliens only:** Type and dates of additional required identification *(e.g., utility bills or lease agreements.) (See Instruction to Transferor 2.)*
Type of Identification | Date(s)

20c. **Nonimmigrant aliens only:** Type of documentation showing an exception to the nonimmigrant alien prohibition *(e.g., hunting license/permit; waiver.) (See Instruction to Transferor 3.)*

Question 21, 22, or 23 Must Be Completed Prior To The Transfer Of The Firearm(s) *(See Instructions to Transferor 5-8.)*

21a. The transferee's identifying information in Section A was transmitted to NICS or the appropriate State agency on: ______________ *(Date)*

21b. The NICS or State transaction number *(if provided)* was:

21c. The response initially provided by NICS or the appropriate State agency was:
☐ Proceed
☐ Denied
☐ Cancelled
☐ Delayed *[The firearm(s) may be transferred on ______________ (MDI date provided by NICS) if State law permits (optional)]*

21d. If initial NICS or State response was *"Delayed,"* the following response was received from NICS or the appropriate State agency:
☐ Proceed ______________ *(date)*
☐ Denied ______________ *(date)*
☐ Cancelled ______________ *(date)*
☐ No resolution was provided within 3 business days.

21e. *(Complete if applicable.)* After the firearm was transferred, the following response was received from NICS or the appropriate State agency on: ______________ *(date).* ☐ Proceed ☐ Denied ☐ Cancelled

21f. The name and Brady identification number of the NICS examiner *(optional)* ______________ *(name)* / ______________ *(number)*

22. ☐ No NICS check was required because the transfer involved only NFA firearm(s). *(See Instruction to Transferor 8.)*

23. ☐ No NICS check was required because the buyer has a valid permit from the State where the transfer is to take place which qualifies as an exemption to NICS *(See Instruction to Transferor 8.)*

State Permit Type	Date of Issuance *(if any)*	Expiration Date *(if any)*	Permit Number *(if any)*

Section C

If the transfer of the firearm(s) takes place on a different day from the date that the transferee *(buyer)* signed Section A, the transferee must complete Section C immediately prior to the transfer of the firearm(s). *(See Instruction to Transferee 3 & Instruction to Transferor 9.)*

I certify that the answers I provided to the questions in Section A of this form are still true and correct.

24. Transferee's/Buyer's Signature | **25. Recertification Date**

Section D (See Instructions to Transferor 10-11.)

26. Manufacturer and/or Importer	27. Model	28. Serial Number	29. Type *(pistol, revolver, rifle, shotgun, etc.)*	30. Caliber or Gauge
Remington	770	71450026	rifle	308
Remington	770	71450014	rifle	270
Remington	770	71450021	rifle	243

ATF Form 4473 (5300.9) Part I
Revised May 2007

I certify that the answers to Section A are true and correct. I am aware that ATF Form 4473 contains Important Notices, Instructions, and Definitions. I understand that answering *"yes"* to question 11.a. if I am not the actual buyer of the firearm is a crime punishable as a felony. I understand that a person who answers *"yes"* to any of the questions 11.b. through 11.k. is prohibited from purchasing or receiving a firearm. I understand that a person who answers *"yes"* to question 11.l. is prohibited from purchasing or receiving a firearm, unless the person also answers "yes" to question 12. I also understand that making any false oral or written statement, or exhibiting any false or misrepresented identification with respect to this transaction, is a crime punishable as a felony. I further understand that the repetitive purchase of firearms for the purpose of resale for livelihood and profit without a Federal firearms license is a violation of law. *(See Important Notice 6.)*

16. Transferee's/Buyer's Signature | 17. Certification Date

Section B - Must Be Completed By Transferor (Seller)

18. Type of firearm(s) to be transferred:
☐ Handgun ☐ Long Gun ☐ Both

19. Location of sale if at a gun show or other qualifying event. *(See Instruction to Transferor 15.)*
______ *(City, State)*

20a. Identification *(e.g., driver's license or other valid government-issued photo identification.)* *(See Instruction to Transferor 1.)*
Type of Identification | Number on Identification | Expiration Date of Identification *(if any)* Month | Day | Year

20b. **Aliens only:** Type and dates of additional required identification *(e.g., utility bills or lease agreements.)* *(See Instruction to Transferor 2.)*
Type of Identification | Date(s)

20c. **Nonimmigrant aliens only:** Type of documentation showing an exception to the nonimmigrant alien prohibition *(e.g., hunting license/permit; waiver.)* *(See Instruction to Transferor 3.)*

Question 21, 22, or 23 Must Be Completed Prior To The Transfer Of The Firearm(s) *(See Instructions to Transferor 5-8.)*

21a. The transferee's identifying information in Section A was transmitted to NICS or the appropriate State agency on: ______ *(Date)*

21b. The NICS or State transaction number *(if provided)* was:

21c. The response initially provided by NICS or the appropriate State agency was:
☐ Proceed
☐ Denied
☐ Cancelled
☐ Delayed *[The firearm(s) may be transferred on ______ (MDI date provided by NICS) if State law permits (optional)]*

21d. If initial NICS or State response was *"Delayed,"* the following response was received from NICS or the appropriate State agency:
☐ Proceed ______ *(date)*
☐ Denied ______ *(date)*
☐ Cancelled ______ *(date)*
☐ No resolution was provided within 3 business days.

21e. *(Complete if applicable.)* After the firearm was transferred, the following response was received from NICS or the appropriate State agency on: ______ *(date).* ☐ Proceed ☐ Denied ☐ Cancelled

21f. The name and Brady identification number of the NICS examiner *(optional)* ______ / ______
(name) *(number)*

22. ☐ No NICS check was required because the transfer involved only NFA firearm(s). *(See Instruction to Transferor 8.)*

23. ☐ No NICS check was required because the buyer has a valid permit from the State where the transfer is to take place which qualifies as an exemption to NICS *(See Instruction to Transferor 8.)*
State Permit Type | Date of Issuance *(if any)* | Expiration Date *(if any)* | Permit Number *(if any)*

Section C

If the transfer of the firearm(s) takes place on a different day from the date that the transferee *(buyer)* signed Section A, the transferee must complete Section C immediately prior to the transfer of the firearm(s). *(See Instruction to Transferee 3 & Instruction to Transferor 9.)*

I certify that the answers I provided to the questions in Section A of this form are still true and correct.

24. Transferee's/Buyer's Signature | **25. Recertification Date**

Section D **(See Instructions to Transferor 10-11.)**

26. Manufacturer and/or Importer	27. Model	28. Serial Number	29. Type *(pistol, revolver, rifle, shotgun, etc.)*	30. Caliber or Gauge
Remington	770	71450001	rifle	300 win
Remington	770	71450004	rifle	300 win
Remington	770	71450005	rifle	300 win

ATF Form 4473 (5300.9) Part I
Revised May 2007

I certify that the answers to Section A are true and correct. I am aware that ATF Form 4473 contains Important Notices, Instructions, and Definitions. I understand that answering *"yes"* to question 11.a. if I am not the actual buyer of the firearm is a crime punishable as a felony. I understand that a person who answers *"yes"* to any of the questions 11.b. through 11.k. is prohibited from purchasing or receiving a firearm. I understand that a person who answers *"yes"* to question 11.l. is prohibited from purchasing or receiving a firearm, unless the person also answers "yes" to question 12. I also understand that making any false oral or written statement, or exhibiting any false or misrepresented identification with respect to this transaction, is a crime punishable as a felony. I further understand that the repetitive purchase of firearms for the purpose of resale for livelihood and profit without a Federal firearms license is a violation of law. *(See Important Notice 6.)*

16. Transferee's/Buyer's Signature	17. Certification Date

Section B - Must Be Completed By Transferor (Seller)

18. Type of firearm(s) to be transferred:

☐ Handgun ☐ Long Gun ☐ Both

19. Location of sale if at a gun show or other qualifying event. *(See Instruction to Transferor 15.)*

______________________ *(City, State)*

20a. Identification *(e.g., driver's license or other valid government-issued photo identification.)* *(See Instruction to Transferor 1.)*

Type of Identification	Number on Identification	Expiration Date of Identification *(if any)* Month	Day	Year

20b. **Aliens only:** Type and dates of additional required identification *(e.g., utility bills or lease agreements.)* *(See Instruction to Transferor 2.)*

Type of Identification	Date(s)

20c. **Nonimmigrant aliens only:** Type of documentation showing an exception to the nonimmigrant alien prohibition *(e.g., hunting license/permit; waiver.)* *(See Instruction to Transferor 3.)*

Question 21, 22, or 23 Must Be Completed Prior To The Transfer Of The Firearm(s) *(See Instructions to Transferor 5-8.)*

21a. The transferee's identifying information in Section A was transmitted to NICS or the appropriate State agency on: ______________ *(Date)*

21b. The NICS or State transaction number *(if provided)* was:

21c. The response initially provided by NICS or the appropriate State agency was:

☐ Proceed
☐ Denied
☐ Cancelled
☐ Delayed *[The firearm(s) may be transferred on ______________ (MDI date provided by NICS) if State law permits (optional)]*

21d. If initial NICS or State response was *"Delayed,"* the following response was received from NICS or the appropriate State agency:

☐ Proceed ______________ *(date)*
☐ Denied ______________ *(date)*
☐ Cancelled ______________ *(date)*
☐ No resolution was provided within 3 business days.

21e. *(Complete if applicable.)* After the firearm was transferred, the following response was received from NICS or the appropriate State agency on: ______________ *(date).* ☐ Proceed ☐ Denied ☐ Cancelled

21f. The name and Brady identification number of the NICS examiner *(optional)* ______________ *(name)* / ______________ *(number)*

22. ☐ No NICS check was required because the transfer involved only NFA firearm(s). *(See Instruction to Transferor 8.)*

23. ☐ No NICS check was required because the buyer has a valid permit from the State where the transfer is to take place which qualifies as an exemption to NICS *(See Instruction to Transferor 8.)*

State Permit Type	Date of Issuance *(if any)*	Expiration Date *(if any)*	Permit Number *(if any)*

Section C

If the transfer of the firearm(s) takes place on a different day from the date that the transferee *(buyer)* signed Section A, the transferee must complete Section C immediately prior to the transfer of the firearm(s). *(See Instruction to Transferee 3 & Instruction to Transferor 9.)*

I certify that the answers I provided to the questions in Section A of this form are still true and correct.

24. Transferee's/Buyer's Signature	25. Recertification Date

Section D (See Instructions to Transferor 10-11.)

26. Manufacturer and/or Importer	27. Model	28. Serial Number	29. Type *(pistol, revolver, rifle, shotgun, etc.)*	30. Caliber or Gauge
Remington	770	71450006	rifle	300win

ATF Form 4473 (5300.9) Part 1
Revised May 2007

Complete ATF Form 3310.4 For Multiple Purchases Of Handguns *(See Instruction to Transferor 13.)*

31. Trade/corporate name and address of transferor *(seller) (Hand stamp may be used.)*	32. Federal Firearms License Number *(Complete 15 digit FFL Number.) (Hand stamp may be used.)*

On the basis of (1) the statements in Section A [illegible] tion C if the transfer does not occur on the day Section A was completed); (2) my verification of the identification no [illegible] 20a (and my reverification at the time of transfer *if the transfer does not occur on the day Section A was completed*); and (3) the information in the current State Laws and Published Ordinances, it is my belief that it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s) listed on this form to the person identified in Section A.

The Person Transferring The Firearm(s) Must Complete Questions 33-36. For Denied/Cancelled Transactions, The Person Who Completed Section B Must Complete Questions 33-35.

33. Transferor's/Seller's Name *(Please print.)*	34. Transferor's/Seller's Signature	35. Transferor's/Seller's Title	36. Date Transfer is Completed
		Sales Assoc	6-4-08

Important Notices

1. **Actual Buyer:** For purposes of this form, you are the actual buyer if you are purchasing the firearm for yourself or otherwise acquiring the firearm for yourself *(for example, redeeming the firearm from pawn/retrieving it from consignment, firearm raffle winner)*. You are also the actual buyer if you are legitimately acquiring the firearm as a gift for a third party. **ACTUAL BUYER EXAMPLES:** Mr. Smith asks Mr. Jones to purchase a firearm for Mr. Smith. Mr. Smith gives Mr. Jones the money for the firearm. Mr. Jones is NOT the actual buyer of the firearm and must answer "no " to question 11.a. The licensee may not transfer the firearm to Mr. Jones. However, if Mr. Brown goes to buy a firearm with his own money to give to Mr. Black as a present, Mr. Brown is the actual buyer of the firearm and should answer "yes" to question 11.a. Please note, if you are picking up a repaired firearm for another person, you should answer "n/a" to question 11.a.

2. **Purpose of the Form:** The information and certification on this form are designed so that a person licensed under 18 U.S.C. § 923 may determine if he or she lawfully may sell or deliver a firearm to the person identified in Section A, and to alert the buyer of certain restrictions on the receipt and possession of firearms. This form only should be used for sales or transfers where the seller is licensed under 18 U.S.C. § 923. The seller of a firearm must determine the lawfulness of the transaction and keep proper records of the transaction. Consequently, the seller must be familiar with the provisions of 18 U.S.C. §§ 921-931 and the regulations in 27 CFR Part 478. In determining the lawfulness of the sale or delivery of a long gun to a resident of another State, the seller is presumed to know applicable State laws and published ordinances in both the seller's State and the buyer's State.

3. **Background Checks:** The Brady law, 18 U.S.C. § 922(t), requires that prior to transferring any firearm to an unlicensed person, a licensed importer, manufacturer or dealer must first contact the National Instant Criminal Background Check System (NICS). NICS will advise the licensee whether the system finds any information that the purchaser is prohibited by law from possessing or receiving a firearm. For purposes of this form, contacts to NICS include contacts to State agencies designated to conduct NICS checks for the Federal Government. **WARNING:** Any seller who transfers a firearm to any person they know or have reasonable cause to believe is prohibited from receiving or possessing a firearm violates the law even if the seller has complied with the background check requirements of the Brady law.

4. **Prohibited Persons:** Generally, 18 U.S.C. § 922 prohibits the shipment, transportation, receipt, or possession in or affecting interstate commerce of a firearm by one who: has been convicted of a misdemeanor crime of domestic violence; has been convicted of a felony, or any other crime, punishable by imprisonment for a term exceeding one year *(this does not include State misdemeanors punishable by imprisonment of two years or less)*; is a fugitive from justice; is an unlawful user of, or addicted to, marijuana or any depressant, stimulant, or narcotic drug, or any other controlled substance; has been adjudicated mentally defective or has been committed to a mental institution; has been discharged from the Armed Forces under dishonorable conditions; has renounced his or her U.S. citizenship; is an alien illegally in the United States or a nonimmigrant alien; or is subject to certain restraining orders. Furthermore, section 922 prohibits the shipment, transportation, or receipt in or affecting interstate commerce of a firearm by one who is under indictment or information for a felony, or any other crime, punishable by imprisonment for a term exceeding one year.

ATF Form 4473 (5300.9) Part I
Revised May 2007

2008 SASDA Conference Wooden Hat and Stand Gift To Former Commissioner

Exhibit 5

KENTUCKY PROUD BASKET REQUEST FORM

DATE:________________________

NAME OF PERSON REQUESTING:____________________________________

EVENT:____

JUSTIFICATION/BENEFIT FOR KENTUCKY PROUD:________________________

____

ESTIMATED COST OR SIZE OF BASKET:________________________________

ESTIMATED DELIVERY DATE:_______________________________________
(1-WEEK NOTICE IS NEEDED IF POSSIBLE)

ACCOUNTING TEMPLATE TO CHARGE BASKET SUPPLIES:_____________________

PERSON REQUESTING SIGNATURE:___________________________________

DIVISION DIRECTOR:____

EXECUTIVE DIRECTOR:____

PLEASE ATTACH PRE-APPROVAL TO REQUEST

Copy
Alisha
Person Requesting

Kentucky Proud.

KENTUCKY PROUD BASKET INVENTORY LIST

	Item	Quantity	Cost Per Item
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			

TOTAL $

Kentucky Proud.

Total number of active fuel stations in Kentucky	
County	**Total number of motor fuel stations in Kentucky**
Adair	20
Allen	18
Anderson	17
Ballard	10
Barren	39
Bath	16
Bell	24
Boone	55
Bourbon	12
Boyd	39
Boyle	27
Bracken	9
Breathitt	19
Breckinridge	23
Bullitt	39
Butler	15
Caldwell	11
Calloway	28
Campbell	42
Carlisle	6
Carroll	13
Carter	31
Casey	24
Christian	49
Clark	23
Clay	25
Clinton	15
Crittenden	3
Cumberland	14
Daviess	69
Edmonson	12
Elliott	7
Estill	14
Fayette	122
Fleming	19
Floyd	32

County	Total number of motor fuel stations in Kentucky
Franklin	37
Fulton	8
Gallatin	11
Garrard	13
Grant	25
Graves	24
Grayson	38
Green	11
Greenup	29
Hancock	6
Hardin	61
Harlan	26
Harrison	13
Hart	21
Henderson	32
Henry	15
Hickman	2
Hopkins	34
Jackson	13
Jefferson	258
Jessamine	23
Johnson	19
Kenton	61
Knott	18
Knox	22
Larue	11
Laurel	57
Lawrence	19
Lee	12
Leslie	14
Letcher	20
Lewis	17
Lincoln	19
Livingston	14
Logan	22
Lyon	9
Madison	58
Magoffin	16

County	Total number of motor fuel stations in Kentucky
Marion	19
Marshall	34
Martin	13
Mason	20
McCracken	43
McCreary	20
McLean	9
Meade	24
Menifee	10
Mercer	19
Metcalfe	10
Monroe	13
Montgomery	24
Morgan	17
Muhlenberg	23
Nelson	33
Nicholas	3
Ohio	26
Oldham	19
Owen	7
Owsley	5
Pendleton	7
Perry	33
Pike	54
Powell	16
Pulaski	59
Robertson	2
Rockcastle	16
Rowan	22
Russell	23
Scott	24
Shelby	28
Simpson	18
Spencer	10
Taylor	26
Todd	10
Trigg	15
Trimble	5

County	Total number of motor fuel stations in Kentucky
Union	14
Warren	64
Washington	10
Wayne	16
Webster	10
Whitley	30
Wolfe	9
Woodford	14
	2,975

Source: Kentucky Department of Agriculture

Motor Fuel Samples Taken by County

Kentucky Counties	Samples pulled by county in 2009	Samples pulled by county in 2010	Samples pulled by county in 2011	Total samples from 2009 to 2011
Adair	10	0	56	66
Allen	2	0	10	12
Anderson	34	52	77	163
Ballard	0	0	6	6
Barren	0	130	2	132
Bath	4	11	0	15
Bell	19	24	5	48
Boone	151	181	141	473
Bourbon	36	43	24	103
Boyd	43	24	25	92
Boyle	12	11	81	104
Bracken	18	22	12	52
Breathitt	25	31	0	56
Breckinridge	0	8	63	71
Bullitt	4	2	2	8
Butler	0	0	0	0
Caldwell	0	4	23	27
Calloway	0	45	46	91
Campbell	110	136	128	374
Carlisle	0	0	18	18
Carroll	43	43	38	124
Carter	31	0	0	31
Casey	12	0	44	56
Christian	0	76	117	193
Clark	64	62	50	176
Clay	42	29	14	85
Clinton	0	0	60	60
Crittenden	0	0	0	0
Cumberland	0	0	43	43
Daviess	2	5	123	130
Edmonson	2	0	0	2
Elliott	0	0	0	0
Estill	0	27	0	27
Fayette	377	405	391	1,173

Kentucky Counties	Samples pulled by county in 2009	Samples pulled by county in 2010	Samples pulled by county in 2011	Total samples from 2009 to 2011
Fleming	12	21	0	33
Floyd	80	64	5	149
Franklin	102	134	116	352
Fulton	0	0	25	25
Gallatin	25	25	16	66
Garrard	23	26	21	70
Grant	65	70	39	174
Graves	0	9	36	45
Grayson	0	49	51	100
Green	4	0	0	4
Greenup	15	0	32	47
Hancock	0	0	27	27
Hardin	12	0	142	154
Harlan	0	60	0	60
Harrison	33	33	35	101
Hart	0	20	78	98
Henderson	0	72	57	129
Henry	8	39	43	90
Hickman	0	0	6	6
Hopkins	46	82	6	134
Jackson	36	40	0	76
Jefferson	40	25	458	523
Jessamine	86	85	89	260
Johnson	41	23	35	99
Kenton	166	185	146	497
Knott	44	43	0	87
Knox	41	66	11	118
Larue	10	3	23	36
Laurel	9	67	105	181
Lawrence	28	36	0	64
Lee	0	24	0	24
Leslie	0	27	7	34
Letcher	49	18	0	67
Lewis	10	7	0	17
Lincoln	15	16	45	76

Kentucky Counties	Samples pulled by county in 2009	Samples pulled by county in 2010	Samples pulled by county in 2011	Total samples from 2009 to 2011
Livingston	0	0	59	59
Logan	0	26	46	72
Lyon	0	17	7	24
Madison	181	200	151	532
Magoffin	7	21	0	28
Marion	0	0	0	0
Marshall	1	39	65	105
Martin	0	39	0	39
Mason	42	60	64	166
McCracken	1	0	60	61
McCreary	35	0	0	35
McLean	0	0	0	0
Meade	0	27	37	64
Menifee	12	0	0	12
Mercer	0	42	23	65
Metcalfe	18	12	33	63
Monroe	8	0	18	26
Montgomery	56	57	0	113
Morgan	0	9	1	10
Muhlenberg	3	79	11	93
Nelson	6	0	1	7
Nicholas	9	16	4	29
Ohio	0	39	37	76
Oldham	6	11	59	76
Owen	9	16	12	37
Owsley	0	10	0	10
Pendleton	17	22	7	46
Perry	100	40	11	151
Pike	36	103	15	154
Powell	12	18	0	30
Pulaski	41	162	0	203
Robertson	5	3	8	16
Rockcastle	12	9	48	69
Rowan	22	20	43	85
Russell	0	0	68	68

Kentucky Counties	Samples pulled by county in 2009	Samples pulled by county in 2010	Samples pulled by county in 2011	Total samples from 2009 to 2011
Scott	96	75	87	258
Shelby	16	31	79	126
Simpson	0	0	12	12
Spencer	17	3	14	34
Taylor	21	0	0	21
Todd	0	0	9	9
Trigg	0	0	33	33
Trimble	0	16	7	23
Union	0	0	54	54
Warren	22	36	97	155
Washington	0	0	0	0
Wayne	12	0	49	61
Webster	9	19	32	60
Whitley	8	16	89	113
Wolfe	10	37	0	47
Woodford	40	41	20	101
Totals	**2,931**	**4,111**	**4,723**	**11,765**

Source: Kentucky Department of Agriculture

STATE FAIR SMALL INVENTORY CHECK OUT FORM

DATE:____________________

PERSON CHECKING OUT EQUIPMENT:____________________

EVENT:____

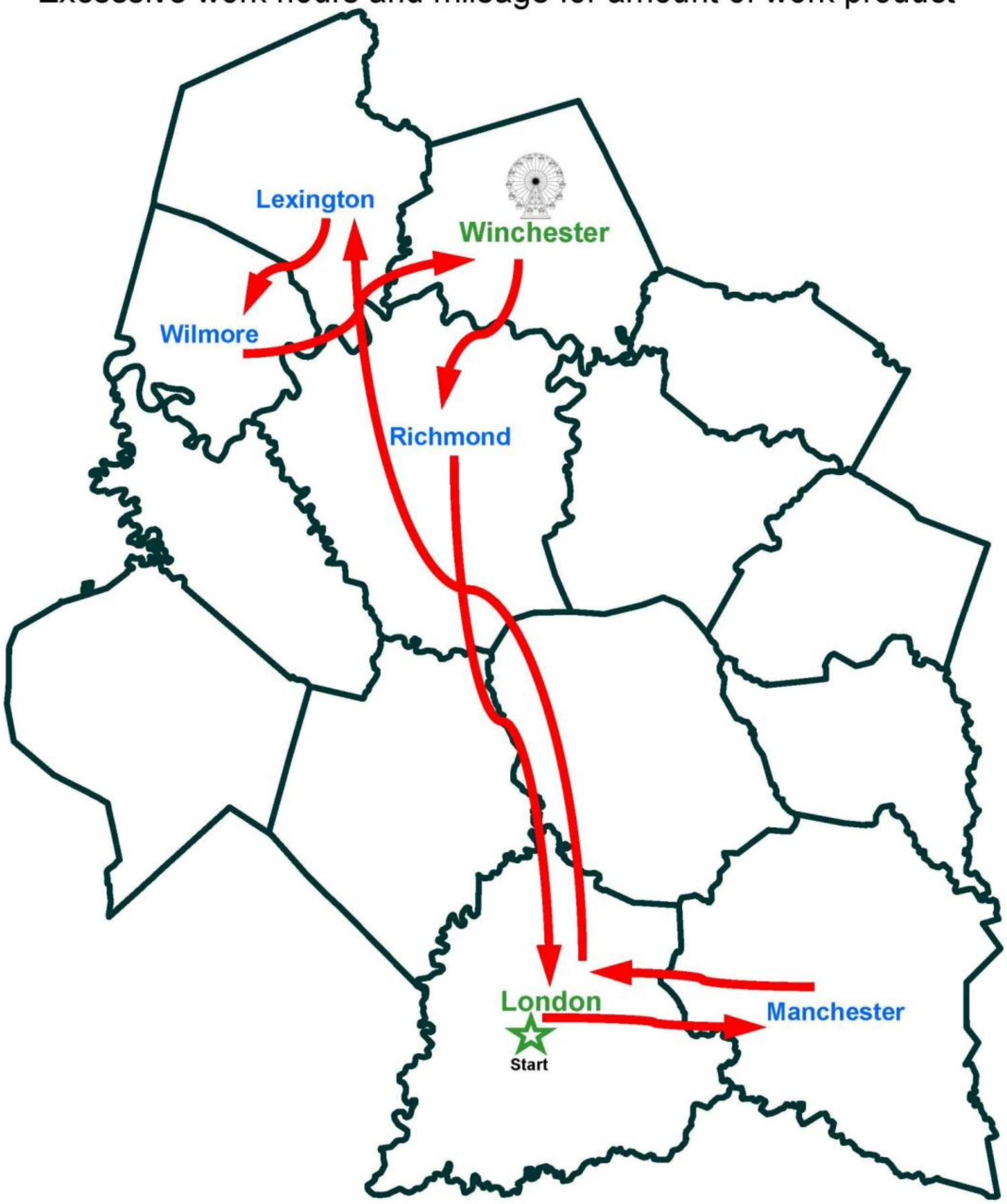
RETURN DATE:____________________________________

EQUIPMENT LIST:__________________________________

Kentucky Proud.

Finding 19

Excessive work hours and mileage for amount of work product



Depart		Arrive	
6:30a	London	7:25a	Manchester
7:27a	Manchester	8:45a	London
8:52a	London	9:45a	Lexington
9:46a	Lexington	10:47a	Wilmore
10:53a	Wilmore	12:08p	Winchester
12:25p	Winchester	1:57p	Richmond
4:02p	Richmond	5:11p	London

Total distance traveled: 269 miles vs. roundtrip London to Winchester of 146 miles
Total hours traveled: 10 hours 41 minutes vs. normal roundtrip time of 3 hours

DEPARTMENT OF AGRICULTURE RESPONSE

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Kentucky
Department of
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April 25, 2012

Honorable Adam Edelen
Auditor of Public Accounts
209 St. Clair Street
Frankfort, Kentucky 40601-1817

RE: Response to the Auditor's Examination of Certain Policies, Procedures, Controls and Financial Activity of the Former Administration of the Kentucky Department of Agriculture

Dear Mr. Edelen:

On January 11, 2012, we took an extraordinary step toward better government by directing our offices to work together on a broad and sweeping examination of the activities of the previous administration at the Kentucky Department of Agriculture (KDA). While this has been an arduous process, a review of the findings and recommendations submitted by your audit team to our office proves it was an absolutely necessary one. Please accept this letter as the KDA's response to your thorough and well-supported audit.

While the KDA accepts the findings and recommendations submitted by your office, we would like to take this opportunity to inform you of some of the sweeping changes and safeguards that have already been implemented at the KDA to ensure that the waste, abuse of power and mismanagement of the past is not repeated.

TRANSPARENCY

Much of what occurred in the previous administration resulted from a veil of secrecy that had been established regarding who was making decisions, what work was being performed and how money was spent.

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One of my first acts as Commissioner was to direct the release of a weekly public schedule detailing all of my activities. Additionally, I post photographs and information from these activities on the internet so the public can be assured that my staff and I are doing the work of the Department and the taxpayers at all times. This Department now operates in the sunshine.

Additionally, our quarterly expense reports will be scanned and available on the Department's website so the taxpayers can scrutinize each and every expenditure and be reassured that wasteful spending and personal expenditures have been eliminated. We will also make the recipients of our grant programs available online so the public can see that appropriate entities are benefiting from these funds.

Finally, we are in the process of implementing new software called the AGNET Travel and Expenditure Approval Process. AGNET goes live on our website on May 1, 2012, at which time all pre-approved expenditures will also be available online.

EFFICIENCY

A deep area of concern for this administration is the proper maintenance and use of the KDA's fleet of vehicles. We are in the process of reviewing the fleet and ascertaining whether it is necessary to continue to maintain the number of vehicles currently in our inventory. Some of the vehicles assigned to employees are, in fact, not meeting the minimum usage requirements. We will consult with the Finance and Administration Cabinet regarding how to surplus these vehicles.

We are also eliminating the waste associated with the State Fair. As the signature event of the Department of Agriculture, the State Fair planning should reflect our obligation to Kentucky's taxpayers. I have established an efficiency team which is meeting bi-monthly and will meet with more frequency closer to the event. The minutes from these meetings are subject to the Open Records Act and I encourage anyone with questions regarding State Fair planning to request these documents.

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We have also negotiated significant savings in our sponsorship of the Boys' and Girls' Sweet 16 Tournament. Our contract with the Kentucky High School Athletic Association this year was reduced by $8,000, but we were able to negotiate more marketing opportunities for Kentucky Proud. Additionally, we reduced our ticket allotment from eight (8) to four (4), reflecting only what we needed to accommodate the individuals being honored for service to agriculture and the presenters of the awards. I also reduced the expense of the Commissioner's hotel accommodations for the Boys' Sweet 16 from $1700 to zero.

One of the more troubling issues discovered during the course of this audit was the amount of state resources spent on the Southern Association of State Departments of Agriculture (SASDA) conference. Because of the hefty taxpayer investment in this conference, I now view the gifts purchased with SASDA/taxpayer funds as Department property. We are attempting to recover as much of this property as possible and it is my intent to consult with the Finance and Administration Cabinet regarding the appropriate way to sell these gifts and put those proceeds toward the cost of this audit.

Finally, smaller but still significant ways we have made the KDA more efficient are in checks and balances for home internet (requiring a letter of business purpose, two levels of supervisor approval and IT review for cost-efficiency) and a drastic reduction in travel approvals.

ACCOUNTABILITY

While the vast majority of employees at the KDA are hard-working and dedicated, this audit detailed some exceptions to that rule. This office will not accept poor work performance. If an employee is not performing his duties competently, legally and ethically, he will be disciplined or dismissed. I have already taken action against each employee cited in your audit that falsely submitted time and attendance records, misused a state vehicle or otherwise exhibited poor work performance. Approximately twenty (20) employees from the former administration are no longer employed by the KDA.

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Your audit cited a number of employees who could not account for their time and were not performing their job duties. In addition to taking disciplinary action against these employees, I have directed that every vehicle assigned to a field inspector in a consumer protection role be fitted with GPS monitoring. GPS monitoring ensures that employees are conducting their inspections and using their vehicles for state business only. Moreover, this tracking mechanism protects employees from meritless accusations or complaints. This program has received national attention and is a great accountability tool that will effectively eliminate no-show employees.

Additionally, on your suggestion, I froze the compensatory pay-outs for a number of employees pending the findings of this audit. I have already determined that at least two of these payments totaling more than $5000 are unwarranted. I will not exacerbate the disregard to the taxpayers by releasing compensatory payments to employees who cannot account for their work product.

Your audit cites to a failure of the previous administration to accurately track KDA inventory. In my first week on the job, I requested an inventory of all department equipment issued to employees and found the records were disturbingly incomplete. Hundreds of items could not be located. We can now account for a number of these items and, with the assistance of your office, KDA staff is in the final stages of purging our inventory records. We will then start a running inventory list for all items over $500 through our Office of Strategic Planning and Administration.

MANAGEMENT IMPROVEMENTS

Many of the management decisions with respect to fuel testing, mitigation of fines, KDA employment and awards to certain employees were arbitrary and/or political. My administration has established fair and legally sound processes in each of these areas free from politics and cronyism.

The mismanagement of the fuel lab in our Office of Consumer and Environmental Protection is a deep concern. Not only was the fuel testing process applied arbitrarily, there was no effort to

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obtain outside contract work that could make the fuel lab the revenue-generating program it was intended to be.

Beginning May 7, our quality fuel sampling plan directs inspectors to pull samples equally from each area coordinator's territory. Additionally, we are negotiating our first contract with a neighboring state to test their fuel and we are pursuing potential new clients in all our neighboring states. Finally, citations issued by this office are not subject to arbitrary or political waiver. Entities that are cited are provided proper notice and due process regarding mitigation, but those decisions are made by a committee free from political machinations.

Regarding the pre-selections and other questionable hiring practices noted in the audit, a review of my non-merit staff should allay any fears that this office would consider political affiliations with respect to any of these positions. My staff is far and away the most politically diverse in state government because my barometer for fitness for employment at the KDA is talent, experience and work ethic. While I have yet to fill any of the merit positions that were vacant when I took office, if and when I do fill these positions, the appointments will be consistent with merit laws and regulations and will be chosen from the recommendations made to me by the interview panel.

Finally, one of the reasons some poor decisions were made during the previous administration was because nearly all management decisions were made in an isolationist manner. Other agencies with expertise in certain areas were never consulted and sound advice was seldom sought regarding personnel matters, ethical dilemmas or spending practices.

In contrast, this office is now in constant communication with the Personnel Cabinet regarding disciplinary actions and general personnel matters, the Executive Branch Ethics Commission regarding ethical questions and violations and the Finance & Administration Cabinet regarding procurement, pro-card usage, fleet and inventory management. Good government can and should be a cooperative effort free from the arrogance of politics, and communication with these agencies again sheds light on the process involved in each decision we make at the KDA.

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Overhauling an agency and completely changing its culture and environment is a great challenge. When I requested this audit, I knew the process would be difficult and time-consuming. But the cooperation and professionalism our staffs exhibited through this examination has set a new standard for good government free from the politics that have ground state government to a stand-still in other areas. I could not be prouder of the achievements that came about through this process and I thank you for your commitment to this effort.

We have accomplished much…and our work continues.

Sincerely,

James Comer

James R. Comer,
Commissioner of Agriculture