



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF AGRICULTURE
AND RURAL DEVELOPMENT

JAMIE CLOVER ADAMS
DIRECTOR

October 22, 2013

Mr. Doug Ringler, Director
Office of Internal Audit Services
Office of the State Budget
George W. Romney Building, 6th Floor
111 South Capitol
Lansing, Michigan 48913

Dear Mr. Ringler:

In accordance with the State of Michigan, Financial Management Guide, Part VII, enclosed is a summary table identifying our responses and corrective action plans to address recommendations contained within the Office of the Auditor General's audit report of the Michigan Department of Agriculture and Rural Development Performance Audit of the Refined Petroleum Fund Expenditures, OAG Report #761-0115-13.

Questions regarding the summary table or corrective action plans should be directed to David Bruce, Chief Financial Officer, bruced9@michigan.gov or (517) 284-5743.

Sincerely Yours,

Signature Redacted

David M. Bruce, Director
Operational Services and Central Licensing

DMB/lra

Enclosure

cc: John Roberts, Executive Office
Jill Bierstetel, Office of the Auditor General
Mary Ann Cleary, House Fiscal Agency
Ellen Jeffries, Senate Fiscal Agency
Phil Potvin, House Agriculture Appropriations Sub-Committee
Mike Green, Senate Agriculture Appropriations Sub-Committee
Kevin Daley, Chair, House Agriculture Committee
Joe Hune, Chair, Senate Agriculture Committee
Jamie Clover Adams, Director, Michigan Department of Agriculture
Gordon Wenk, Chief Deputy Director, MDARD
Derek Bajema, Legislative Liaison, MDARD
Jennifer Holton, Director of Communications
Bonnie Moon, Director, Laboratory Division, MDARD
Craig VanBuren, Director, MFQ/W&M Programs, MDARD
Maria Tyszkiewicz, Budget Officer, MDARD
Cinda Karlik, Budget Analyst, MDARD
Bryan Weiler, Michigan Department of Technology, Management and Budget



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PERFORMANCE AUDIT
REFINED PETROLEUM FUND EXPENDITURES
OAG REPORT # 761-0115-13
RELEASED MAY, 2013

EXHIBIT B: TABLE SUMMARIZING RESPONSES TO RECOMMENDATIONS

1. Audit recommendations the agency complied with:
 - NONE

2. Audit recommendations the agency agrees with and will comply:
 - Finding 2. c: at the first available opportunity in the future that this funding decision needs to be made

3. Audit recommendations the agency disagrees with:
 - Finding 2. a, b, and d

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FINDING

2. **MDARD Expenditures**

MDARD had not established effective controls to ensure that all uses of RPF funds were in accordance with the purposes defined in Sections 324.21501 - 324.21563 of the *Michigan Compiled Laws*. As a result, MDARD improperly charged at least \$88,000 of expenditures unrelated to gasoline inspection programs to RPF during our audit period.

Our review of a sample of RPF expenditures incurred by MDARD disclosed:

- a. MDARD overallocated a portion of in-State travel expenditures to RPF. MDARD's Weights and Measures Program is responsible for performing inspections of motor fuel pumps as well as weighing and measuring devices used by retailers. MDARD informed us that it charged all in-State travel expenditures for Weights and Measures Program staff to RPF. Based on discussions with MDARD staff and supporting documentation of the inspections conducted, we determined that 95% of the inspections conducted related to motor fuel pumps and 5% related to other weighing and measuring devices. Therefore, 5% of in-State travel expenditures for the Weights and Measures Program should not have been charged to RPF. As a result, \$68,239 was overallocated to RPF from fiscal year 2004-05 through fiscal year 2011-12.
- b. In fiscal years 2009-10 and 2010-11, MDARD issued grants from RPF funds in the amounts of \$6,657 and \$11,025, respectively, to the Michigan Weights and Measures Association for a training and professional development scholarship fund. A grant to a professional association for a training and professional development scholarship fund did not meet the defined purposes of RPF and did not constitute reasonable administrative expenses.

Further review of the Michigan Weights and Measures Association grants disclosed that the Association used grants to reimburse eight MDARD employees for attending out-of-State conferences. By using the grants, MDARD circumvented State travel restrictions and out-of-State travel limits. Executive Directive No. 2007-19 (extended with Executive Directive No. 2007-21) prohibited out-of-State travel until further notice unless legally mandated, necessary to protect the health and safety of Michigan citizens, or necessary to produce budgetary savings. In November 2009, out-of-State travel was allowed as long as it was approved by the department director and met certain conditions, specifically that out-of-State travel costs did not exceed travel limits.

MDARD informed us that issuing the grants to the Michigan Weights and Measures Association was necessary because the Laboratory Division had exceeded its travel limits and Weights and Measures Program staff required more travel than what these limits allowed.

- c. MDARD used \$2,160 of RPF funds for equipment repairs on a motorized weight cart not used for gasoline inspections. The weight cart was used for heavy duty weights and measures inspections unrelated to gasoline inspections. Therefore, MDARD should have paid this repair from another source, such as weights and measures regulation fees.
- d. MDARD did not appropriately allocate RPF funds for Constitution Hall rent expense. As a result, RPF overpaid for its portion of Constitution Hall rent.

MDARD used RPF funds to pay \$257,200 of the total Constitution Hall rent in fiscal years 2010-11 and 2011-12. This amount equaled 26.1% and 27.7% of the total rent charges of \$986,992 and \$929,694 in fiscal years 2010-11 and 2011-12, respectively.

MDARD allocated Constitution Hall rent to MDARD divisions based on the number of division staff working in Constitution Hall. However, MDARD staff who work on RPF programs are primarily located in laboratories and other buildings outside of Constitution Hall. Although it is appropriate for MDARD to allocate to RPF a share of the cost of administrative staff located in

Constitution Hall (37 in fiscal year 2010-11 and 26 in fiscal year 2011-12), MDARD charged more than the appropriate share to RPF. Based on MDARD's rent allocation methodology, RPF was charged the equivalent of 59 staff in fiscal year 2010-11 and 56 staff in fiscal year 2011-12.

MDARD indicated that, prior to fiscal year 2010-11, it used this same method to allocate rent. Therefore, MDARD may have inappropriately allocated rent to RPF from fiscal year 2004-05 through fiscal year 2009-10.

RECOMMENDATION

We recommend that MDARD establish effective controls to ensure that all uses of RPF funds are in accordance with the purposes defined in Sections 324.21501 - 324.21563 of the *Michigan Compiled Laws*.

AGENCY RESPONSE AND CORRECTIVE ACTION PLAN

MDARD partially agrees with the finding.

With regard to **part a.**, MDARD disagrees that \$68,239 was overallocated to RPF during fiscal year 2004-05 through fiscal year 2011-12. The Weights and Measures Program is funded by two funds, with RPF being one of them. MDARD believes that pulling out a particular segment of overall spending (travel) and calculating the 95% and 5% device inspection rate splits is not reasonable. MDARD also believes that one segment/one fund does not give a true picture of expenditures for the program and/or the RPF fund. Between fiscal year 2004-05 and fiscal year 2011-12, only 93% of actual Weights and Measures Program expenditures were charged to RPF, which means that, for a program that expended \$11.9 million over eight fiscal years, there was \$245,827 less charged to RPF than had MDARD charged a full 95% of the Weights and Measures Program expenditures to RPF for gasoline related inspections.

With regard to **part b.**, MDARD disagrees that this grant did not meet the purposes of RPF and thus was not a reasonable administrative expense. This travel grant was for the American Society for Testing and Materials gasoline conference and the National Conference on Weights and Measures annual conference. As determined by the auditors, expenditures at the conferences were determined to be

allowable expenses. Conference attendance was mandatory in order to maintain necessary certification to perform inspection tasks.

MDARD agrees with **part c.** of the finding and will comply at the first available opportunity in the future that this funding decision needs to be made.

With regard to **part d.**, MDARD disagrees. The appropriation for rent is determined by the State Budget Office and is expended accordingly. Within boilerplate of MDARD's appropriations acts, MDARD was not given guidance on how RPF funds for rent were to be used. RPF funding was increased to replace the State service fees.

OFFICE OF THE AUDITOR GENERAL EPILOGUE

In the agency preliminary response for part a., MDARD stated that it charged \$245,827 less to RPF than had it charged a full 95% of the Weights and Measures Program to RPF for all gasoline related expenditures. Our sample of RPF expenditures within the Weights and Measures Program identified that MDARD improperly charged in-State travel expenditures to RPF, as reported in the finding. Our RFP sample did not include all Weights and Measures Program expenditures; therefore, we cannot opine on the accuracy of MDARD's assertion regarding the amount of expenditures charged to the Weights and Measures Program in total.

In regard to the agency preliminary response for part b., we agree that RPF expenditures for training and professional development would be considered allowable administrative expenses. However, this finding is the result of RPF expenditures for the issuance of a grant to a professional association to establish a scholarship fund, which is not an allowable use of RPF funds as defined in Sections 324.21501 - 324.21563 of the *Michigan Compiled Laws*. Furthermore, MDARD issued the grant to circumvent State travel restrictions.