Nicole R. Galloway, CPA

Missouri State Auditor

CONSERVATION

Department of Conservation

November 2015

Report No. 2015-104

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Nicole R. Galloway, CPA
Missouri State Auditor

CITIZENS SUMMARY

Findings in the audit of the Department of Conservation

Clothing and Uniform Allowances	The Missouri Department of Conservation (MDC) does not report clothing allowances provided to department employees for most general use clothing items as taxable benefits as required by the United States Internal Revenue Code (IRC) and Internal Revenue Service (IRS) regulations. The MDC does not adequately review uniform allowance certification reports for compliance with MDC policy and IRC and IRS regulations, and various errors and instances of noncompliance were not detected.
Meals	The MDC paid for group meals for commissioners, employees, and others that did not appear necessary to the operation of the department or reasonable use of state funds. Our review noted meal costs which appeared excessive, meals provided to employees not on travel status and non-employees, meals provided when no business was conducted, and a lack of documentation supporting the business purpose of the meals as required by state regulations and departmental policy. Additionally, the MDC has not adopted limits for employee meal purchases while traveling as required by executive order, and some meal costs exceeded the Office of Administration established per diem rates.
Grant Administration	The MDC does not always follow grant requirements when awarding and reimbursing grantees through the Tree Resource Improvement and Maintenance grant program and the Landowner Assistance Program. Some grantees were overpaid.
Advertising Contract	The MDC did not comply with some contractual requirements when contracting with an advertising agency to develop a statewide advertising campaign. Although required by contract terms, MDC officials could provide no documentation to show they provided the advertising agency a maximum budget amount for the project. In addition, the budgets provided by the advertising agency only included total costs by type of service, and did not specify the number of hours and hourly rates of personnel.
Sunshine Law	The Conservation Commission approved four legal settlements totaling $67,900 in closed meetings, but did not make public in an open meeting the final disposition of legal matters.
Previous Audit Findings - State Flight Operations	In January 2015, the Office of the State Auditor issued Report No. 2015-003, *State Flight Operations*, which included findings related to the MDC. The state paid for charter flights for MDC commission members, former commission members, and employees when state-owned planes were available. The MDC spent approximately $117,000 flying commission members to commission meetings, when commission members of state boards other than the Missouri Department of Transportation and the MDC typically receive motor vehicle mileage reimbursement for travel costs. The MDC did not document supervisory reviews of passenger flight reports.

Additional Comments	The MDC's responses to the audit findings indicate approximately half the recommendations will be implemented. For the other half, the responses indicate disagreement or no intent to implement the findings.

In the areas audited, the overall performance of this entity was **Good**.*

*****The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

Excellent: The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.

Good: The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.

Fair: The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.

Poor: The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

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Department of Conservation
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Missouri State Auditor

Honorable Jeremiah W. (Jay) Nixon, Governor
and
Conservation Commission
and
Robert L. Ziehmer, Director
Department of Conservation
Jefferson City, Missouri

We have audited certain operations of the Department of Conservation, in fulfillment of our duties under Chapter 29, RSMo. The scope of our audit included, but was not necessarily limited to, the years ended June 30, 2014 and 2013. The objectives of our audit were to:

1. Evaluate the department's internal controls over significant management and financial functions.

2. Evaluate the department's compliance with certain legal provisions.

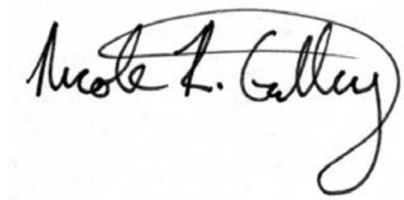
3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing minutes of meetings, written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the department, as well as certain external parties; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract, grant agreement, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the department's management and was not subjected to the procedures applied in our audit of the department.

For the areas audited, we identified (1) deficiencies in internal control, (2) noncompliance with legal provisions and (3) the need for improvement in management practices and procedures. The accompanying Management Advisory Report presents our findings arising from our audit of the Department of Conservation.



Nicole R. Galloway, CPA
State Auditor

The following auditors participated in the preparation of this report:

Deputy State Auditor:	John Luetkemeyer, CPA
Director of Audits:	Kim Spraggs, CPA
Audit Manager:	Travis Owens, MBA, CPA, CFE
In-Charge Auditor:	Josh Allen, CPA, CFE
Audit Staff:	Christopher A. McClain
	Sara R. Walsh, MPA

1. Clothing and Uniform Allowances

The Missouri Department of Conservation (MDC) does not report some clothing allowances provided to department employees as taxable benefits as required by the United States Internal Revenue Code (IRC) and Internal Revenue Service (IRS) regulations. In addition, the MDC does not adequately review uniform allowance certification reports for compliance with MDC policy and IRC and IRS regulations.

Most MDC employees receive annual clothing or uniform allowances. The MDC provides certain Protection Division employees (primarily conservation agents) an annual uniform allowance. The MDC provides certain employees of other divisions an annual clothing allowance to purchase various clothing items they are required to wear for their position and job duties. The MDC paid about $646,000 for clothing and uniform allowances during fiscal year 2014, and about $617,000 during fiscal year 2013.

1.1 Clothing allowances

The MDC does not report most general use clothing items provided to employees as taxable benefits as required by the IRC and IRS regulations.

Annual clothing allowances range from $100 to $500 per employee. Clothing items purchased include items with the MDC logo, such as shirts, jackets, and hats; and other items such as shorts, pants, jeans, skirts, overalls, belts, and boots that do not have the MDC logo. The MDC contracts with a vendor for most clothing items. Employees order department-approved items from the vendor, and the vendor bills the MDC for the items and tracks each employees' allowance balances. Employees can also purchase similar items from other vendors with their clothing allowance, and be reimbursed by the MDC.

MDC officials only report certain clothing items provided to employees (boots and items purchased from other vendors) on employee W-2 forms as taxable benefits. Prior to December 2007, the MDC reported non-logo clothing items as taxable employee benefits, and considered logo clothing as non-taxable. In an effort to minimize employee tax liability, beginning in December 2007, the MDC instructed the contracted vendor to apply a small permanent MDC ink stamp to the inside of non-logo clothing items, except boots, and stopped reporting these items on employee W-2 forms. MDC officials indicated these clothing items are no longer considered general use items once the stamp is applied; however, they could provide no legal support for this position. Our review of clothing purchases from the contracted vendor during calendar year 2014 identified non-logo clothing purchases, except boots, totaling at least $103,000 that were not reported as taxable benefits.

The IRC and IRS regulations provide that clothing allowances can be excluded from wages if they are for clothing that (1) is specifically required as a condition of employment, (2) cannot be adaptable to general use as ordinary clothing, and (3) is not actually worn as ordinary clothing. The application of a small ink stamp, that is not readily visible, to the inside of clothing does not appear to prevent such items from being adaptable to general use as ordinary clothing or taxable to the employee. The failure to properly report all taxable benefits and withhold taxes could result in the MDC being assessed penalties and fines.

1.2 Uniform allowances

Some uniform allowance certification reports submitted by conservation agents were not adequately reviewed; as a result, MDC personnel did not detect various errors and instances of noncompliance with MDC policy and IRC and IRS regulations.

Annual uniform allowances for purchase and maintenance of uniforms range from $500 to $1,000 per employee, with most agents receiving a $1,000 allowance. The MDC disburses uniform allowance payments to employees semiannually, in January and July. At the end of each calendar year, employees submit a certification report detailing the items purchased, whether the items were taxable or non-taxable, and any unspent allowance amounts. Employees are required to attach receipts, invoices, or other documentation supporting each purchase and a payment to the MDC for any unspent amounts. The Protection Division's uniform policy lists allowable clothing items and whether or not each item is taxable. For items classified as taxable, the MDC reports amounts on employee W-2 forms as taxable benefits and withholds payroll taxes. District and regional supervisors are required to review the reports and supporting documentation.

Our review of 16 certification reports supporting calendar year 2013 and 2014 uniform allowances noted 6 (38 percent) reports containing various errors. While each of these certification reports was reviewed and approved by the employee's direct supervisor, the supervisor did not detect these errors.

- When one agent left employment in 2014, he did not submit a certification report supporting the $500 uniform allowance received in January 2014, or return any unspent monies. The uniform policy requires employees that terminate employment submit a certification report and return any unspent monies to the MDC.

- One agent submitted the same 2013 purchase on both his 2013 and 2014 certification reports; resulting in unspent funds of $28 that were not returned. The uniform policy requires agents to report purchases in the year they occurred.

- One agent incorrectly classified a purchase of running shoes and insoles totaling about $82 as non-taxable. The uniform policy requires that certain general use items, including running shoes, be reported as taxable benefits.

- Agents incorrectly calculated total purchases and unspent allowance amounts on three certification reports.

The IRC and IRS regulations require that employees substantiate uniform allowance expenses to the employer and return any unspent funds in a reasonable period of time. The MDC should strengthen controls to ensure uniform allowances comply with MDC policy and IRC and IRS requirements.

Recommendations

The MDC:

1.1 Perform a comprehensive review of clothing policies and procedures, and revise them as necessary to ensure consistency with the IRC and IRS regulations. The value of clothing items provided to employees deemed to be taxable should be recorded as taxable benefits on employee W-2 forms.

1.2 Ensure uniform allowance certification reports are filed and adequately reviewed for accuracy and compliance with MDC policy and IRC and IRS requirements.

Auditee's Response

1.1 The Department will review its Clothing Standards Policy to determine if any changes are necessary, however, the Department believes its Clothing Standards Policy, revised August 1, 2015, complies with the Internal Revenue Code and Internal Revenue Service regulations. Department policy clearly defines the staff required to wear uniform clothing and states that all uniform clothing is for work purposes only. Uniform clothing purchased from the Department's vendor is not worn or adaptable to general usage as ordinary clothing. Finally, uniform clothing purchased from the vendor (other than boots) contains Department identification and so it is properly considered a nontaxable fringe benefit.

1.2 The Department will ensure uniform allowance certification reports are filed and adequately reviewed for accuracy and will make efforts to collect any uniform funds that should be refunded by current or former conservation agents.

Auditor's Comment

1.1 For many clothing items, MDC clothing policies and procedures appear to meet two of three IRC and IRS requirements for non-taxable clothing allowances, but do not meet the requirement that clothing cannot be adaptable to general use as ordinary clothing. Ordinary clothing items, only stamped on the inside, are adaptable for general wear, can be worn as ordinary clothing outside of work, and are taxable fringe benefits. The Department should review the clothing policy and procedures for compliance with IRC and IRS regulations, and document the legal basis for policy decisions regarding taxing clothing allowances.

2. Meals

Some meals provided to the Commission, MDC employees, and others do not appear necessary and reasonable. In addition, the MDC has not established limits for employee meal purchases while traveling as required by executive order.

2.1 Commission meeting meals

The MDC paid for group meals for commissioners, employees, and others that did not appear necessary to the operation of the department or reasonable use of state funds.

Commissioners travel to attend approximately 8 commission meetings held each year in Jefferson City or other locations throughout the state. The MDC typically provides a group meal to the four commissioners and several MDC executive staff and managers during the evening following the closed session meeting and before the open session meeting held the following day. While providing meals to commissioners and employees on travel status is reasonable, some meals were provided to employees not on travel status and non-employees, and meal costs reviewed appeared excessive. Our review of three of these meals held at restaurants in central Missouri noted the following:

- In July 2013, the MDC hosted a banquet event in Columbia, Missouri, to commemorate the Commission's 75th anniversary. The MDC paid $2,450 for 61 attendees, including current and former commissioners and their spouses and MDC staff (spouses of MDC staff paid the cost of their meal). The costs paid by the MDC, including food and vendor service charges, totaled about $40 per person.

- The MDC hosted dinners at a winery near Jefferson City in August 2013 and April 2014. The 4 commissioners and 7 MDC staff attended the August 2013 dinner, which cost $667. The costs including food, room rental, service charges, and gratuity totaled about $61 per person. Twenty MDC staff and 3 commissioners attended the April 2014 dinner, which cost $1,313, or $57 per person.

While no department business was conducted, MDC officials indicated these dinners provided additional opportunities for employees to network and build working relationships with the commissioners and recognize them for their public service. The MDC maintained no documentation supporting the business purpose of the dinners and it is questionable whether the meal expenses were necessary to provide such networking opportunities. State regulation, 1 CSR 10-3.010(1), requires that state payment of goods and services have a clear business relationship to the agency work program; and the state agency provided food policy (SP-5) and the MDC's Purchasing, Bidding, Contracting, and Invoicing Policy require a description of the state business conducted be documented for meals provided. The MDC should ensure meal expenses are limited to those that are reasonable and necessary to department operations and the business purpose is documented in accordance with state and department policies.

2.2 Travel meals

The MDC has not adopted limits for employee meal purchases while traveling and some meal costs exceeded the Office of Administration (OA) established per diem rates.

Employees pay for most travel expenses, including meals for themselves and other employees, with department issued procurement cards. Receipts supporting each meal purchase are attached to monthly procurement card statements and reviewed by the employee's supervisor and Administrative Services division personnel prior to payment. Expenditures for employee meals while on travel status totaled about $417,000 during fiscal year 2014 and about $387,000 during fiscal year 2013.

The MDC's travel policy states travel expenses should be reasonable and necessary and comply with current State of Missouri Travel Regulations. State travel regulation, 1 CSR 10-11.010(4), provides that department policies shall not grant expenses that are not allowed under the state travel regulations or OA policies. The state travel policy (SP-6) issued by the OA establishes standard policies and limits for state employee meal purchases while on travel status. The policy allows agencies to (1) pay the statewide meal per diem established by OA; (2) pay a meal per diem that is lower than the statewide meal per diem; or (3) reimburse the employee for the actual meal expenses incurred, not to exceed the statewide meal per diem. However, the MDC has not adopted any of these options, and allows employees to purchase meals without any limits.

MDC officials indicated a recent internal review shows the department saves costs by paying actual meal costs rather than paying employees the statewide meal per diem rates; however, the review looked at total costs per trip rather than per meal, and such savings would only occur when employees spend less than the per diem rate on average. For 5 of 6 (83 percent) individual and group meal purchases reviewed, statewide per diem rates were exceeded by $3 to $14 per person.

Executive Order No. 92-6 requires all state boards and commissions to maintain a policy governing travel rules and regulations equivalent to or substantially equivalent to rules established by the OA. Limits for meal expenses while traveling, such as state per diem rates, could help ensure such payments are reasonable, control costs, and ensure compliance with Executive Order No. 92-6.

Recommendations

The MDC:

2.1 Ensure meal expenses are reasonable and necessary to department operations and the business purpose is documented.

2.2 Establish employee travel meal policies that are substantially equivalent to those for state agencies as required by Executive Order No. 92-6.

Auditee's Response

2.1 The Department respectfully disagrees with this finding because meals involving the Commission and Department staff serve a valuable business purpose of developing and perpetuating the working relationship between the Commission and staff.

2.2 The Department will review its Travel Reimbursement Policy based upon the Auditor's recommendation. The Department will make necessary revisions to reflect the Department's intent to comply with State of Missouri Travel Regulations except for the per diem rate. The Department's current policy and practices associated with reviewing and reimbursing employees for actual expenses, particularly with respect to use of purchasing cards, ensure that that meal expenses are reasonable and necessary for employees on travel status.

Auditor's Comment

2.2 The response provided by MDC officials indicates they do not intend to comply with the State of Missouri Travel Regulations regarding per diem rates. The travel regulations provide for meal limits at or below the per diem rates, depending on the option chosen by the department. Without meal limits, there is a risk that meal purchase amounts will continue to exceed maximums allowed by state travel regulations, supervisors will have differing views on what is reasonable and necessary, and the MDC will not comply with Executive Order No. 92-6.

3. Grant Administration

The MDC's procedures for awarding and processing payments for the Tree Resource Improvement and Maintenance grant program and the Landowner Assistance Program need improvement. The MDC overpaid some grantees.

3.1 TRIM grants

The MDC does not always follow grant requirements when awarding and reimbursing grantees through the Tree Resource Improvement and Maintenance (TRIM) grant program.

The Forestry Division awards TRIM grants on a competitive basis to government entities, including public schools, and not-for-profit entities to provide financial assistance for the management, improvement, or conservation of community forests. The MDC reimburses grantees 60 percent of approved actual project costs and awards bonus reimbursement rates of 15 and/or 5 percent to certain grantees based on established criteria. The TRIM cost-share application and grant agreement outline the award and reimbursement guidelines for the program. The guidelines provide that reimbursements be based on documentation submitted by the grantees supporting actual costs incurred. The MDC paid TRIM grant award recipients about $324,000 during fiscal year 2014 and about $304,000 during fiscal year 2013.

Our review of 16 TRIM grant awards and related payments noted the following:

- The MDC awarded a school district a 5 percent bonus ($569) not allowed per TRIM guidelines. The approved grant application indicated the bonus was for the Missouri Arbor Award of Excellence; however, the school district did not receive this award. MDC officials indicated the bonus was awarded because the city where the school district is located had received a Citation of Merit award; however, the TRIM guidelines do not provide for bonuses for Citation of Merit awards or awards received by other entities. Additionally, the MDC did not document the reasons for granting an exception to the TRIM guidelines and awarding this bonus.

- The MDC also overpaid this school district an additional $557. Based on documentation submitted by the school district supporting actual costs, the MDC reimbursed the school district $557 more than it should have. MDC officials could not explain the cause for this overpayment.

- For a grant awarded to a city for seven city employees and board members to attend a forestry conference, the MDC reimbursed the registration costs of one board member who did not attend the conference. The city requested reimbursement for six conference registrations, but the MDC paid for seven. MDC officials indicated the unused conference registration was paid because the conference typically does not issue refunds for participants that do not attend.

To ensure the equitable treatment of grantees and proper administration of grant funds, the MDC should establish procedures to ensure TRIM grants are awarded and paid in accordance with grant guidelines. The reasons supporting any exceptions to the guidelines should be documented.

3.2 Landowner Assistance Program

The MDC does not always follow grant policies and agreements when awarding and reimbursing grantees through the Landowner Assistance Program (LAP).

The LAP is administered by the Private Land Services (PLS) Division. The LAP provides technical and financial assistance to Missouri private landowners, including governmental entities, to improve wildlife habitats on privately owned land. PLS staff work with landowners to identify needs and create a management plan and application for LAP funding. Once approved, the landowner and the MDC enter into a cost-share agreement. After improvements are complete, PLS staff inspect the project, the landowner submits documentation supporting actual costs, and the MDC reimburses the landowner based on actual costs of the items/services listed in the agreement. The LAP cost-share docket outlines the award and reimbursement guidelines for each management practice. Some practices are awarded at flat rates, regardless of actual costs incurred, while others are reimbursed a percentage of actual cost. Through the LAP, the MDC paid approximately $1.1 million to 564 Missouri landowners during fiscal year 2014, and approximately $1.1 million to 592 Missouri landowners during fiscal year 2013.

Our review of 20 LAP grant awards and related payments noted problems with the following 4 (20 percent) projects:

- The MDC reimbursed a landowner the cost of seed mix at 90 percent instead of 50 percent as required by policy. The LAP cost-share docket allowed for reimbursement at 90 percent of actual costs only if at least 75 percent of the total seed volume for the project was "yellow-tag" seed (Missouri source seed). The blended seed mix used for this project did not meet the 75 percent threshold, but the landowner was reimbursed at 90 percent, or $700 more than allowed. MDC officials indicated the seed was reimbursed at 90 percent because the cost estimate included in the agreement provided for a sufficient level of yellow-tag seed, but the landowner was unable to purchase that level due to a shortage. However, these circumstances were not documented.

- The MDC paid a landowner based on the original cost estimate, instead of actual costs. The original cost estimate was $742, but actual reimbursable costs totaled only $671, an overpayment of $71.

- The MDC reimbursed a landowner for seed for four acres while seed for only three acres was approved in the agreement. MDC officials indicated PLS staff approved additional seed for the project, but this approval was not documented.

- The LAP agreement was signed by an individual who was not the landowner, and the MDC had not obtained a power-of-attorney form supporting that the individual could legally represent the landowner. The signature of the individual(s) who has sole legal ownership of the property, or an individual who can legally represent the landowner(s), is required on the agreement to attest that landowner understands and accepts all program requirements.

In an effort to reduce errors and increase consistency, in August 2014 MDC officials implemented an electronic payment calculator (spreadsheet). The PLS employees are required to use the calculator when processing and authorizing LAP payment reimbursements. Additionally, effective in fiscal year 2016, the MDC revised the cost-share docket and the payment calculator regarding reimbursements for seed. These new procedures may prevent some, but not all, of the errors identified above.

To ensure the equitable treatment of grantees and proper administration of grant funds, the MDC should establish procedures to ensure LAP grants are awarded and paid in accordance with LAP policies and grant agreements. The reasons supporting any exceptions to the policies and agreements should be documented. To ensure the MDC can enforce requirements of the LAP, the MDC should ensure grant agreements are signed by the landowner or a legally authorized representative, and a power of attorney form is received from the landowner's representative if necessary.

Recommendations

The MDC:

3.1 Ensure TRIM grants are awarded and paid in accordance with grant guidelines. The reasons supporting any exceptions made to the guidelines should be documented. Additionally, the MDC should attempt to recover overpayments to TRIM grantees.

3.2 Ensure LAP grants are awarded and paid in accordance with program policies and grant agreements. The reasons supporting any exceptions made to the policies and agreements should be documented. Additionally, the MDC should attempt to recover overpayments to landowners.

Auditee's Response

3.1 The Department will ensure Tree Resource Improvement and Maintenance grants are awarded and paid in accordance with grant guidelines. Any exceptions to the guidelines will be documented. The Department will implement a spreadsheet program to calculate grant awards to avoid mathematical errors on the grant awards. The Department agrees that in the future it will attempt to identify and collect any overpayments.

3.2 As acknowledged in the report, the Department has implemented changes to the program to ensure Landowner Assistance Program grants are awarded and paid in accordance with department policies and grant agreements. Any exceptions to the policies and agreements will be documented. The Department agrees that in the future it will attempt to identify and collect any overpayments.

4. Advertising Contract

The MDC did not comply with some contractual requirements when contracting with an advertising agency to develop a statewide advertising campaign.

In March 2013, the MDC contracted with an advertising agency, through statewide contract, to implement an integrated statewide advertising campaign. Sometime after October 2013, the MDC ended the engagement with the agency and continued to implement the campaign in-house, using the market research and strategy developed by the advertising agency to guide advertising decisions. MDC payments to the advertising agency totaled about $156,000 in fiscal year 2014 and about $69,000 in fiscal year 2013. These payments were for work performed on the statewide advertising engagement, as well as various other advertising services performed on an as-needed basis.

Although required by contract terms, MDC officials could provide no documentation to show they provided the advertising agency a maximum budget amount for the project. In addition, the budgets provided by the advertising agency in March and October 2013 only included total costs by type of service, and did not specify the number of hours and hourly rates of personnel. The budget submitted by the advertising agency and approved by the MDC in March 2013, included at least $251,000 to the advertising agency and between $350,000 and $600,000 for media purchases for the initial 6-month period. The budget submitted by the advertising agency in October 2013 proposed media purchase costs of $900,000 for a 1-year period.

The OA statewide contract terms and conditions specify when the contractor provides project services, the contractor's activity plan must be designed for the maximum budget amount specified by the state agency as available for the project and include a detailed line item budget using hourly prices and percentages specified in the contract. Establishing and communicating budget maximums at the beginning of the project is necessary to guide both the department and the advertising agency in developing campaign components within spending limitations, prevent misunderstandings, and ensure unnecessary costs are not incurred. Project budgets should be adequately detailed to demonstrate compliance with statewide contract pricing, and help manage project costs.

Recommendation

The MDC ensure advertising engagements are supported by budgets that are within established spending limits and comply with contractual requirements. Communication of the maximum budget amounts and/or spending limits for each engagement should be documented.

Auditee's Response

The Department has and will comply with all Office of Administration and other required contract requirements and procedures for advertising and marketing activities. This will include but not be limited to establishing and communicating budget maximums at the beginning of advertising and marketing projects, which will guide both the Department and the advertising/marketing agency in developing campaign components within spending limitations, prevent misunderstandings, and ensure unnecessary costs are not incurred. Advertising and marketing project budgets will be adequately detailed to demonstrate compliance with statewide contract pricing and include but not be limited to: a maximum budget amount for the project; inclusion of number of hours and hourly rates of advertising/marketing agency personnel; and a detailed line-item budget using hourly prices and percentages specified in the contract.

Department staff monitored this specific marketing contract throughout the process, including making sure that project scope and costs remained within *the allotted budget. Specific deliverables were delivered to the Department and follow-up decisions were made to inform and educate Missouri citizens and enhance their understanding of conservation.*

5. Sunshine Law

The Commission does not always make public in an open meeting the final disposition of legal matters discussed in closed meetings.

Our review of closed meeting minutes from March 2013 through April 2015 noted four legal settlements totaling $67,900 were approved by the Commission during closed session. MDC personnel indicated final decisions involving legal settlements made during closed session are considered public record and made available to the public upon request. However, the public may not be aware of such decisions since they were never documented in open session minutes.

Missouri's Sunshine Law, Chapter 610, RSMo, provides for transparency and openness of government. Section 610.011(1), RSMo, states "it is the public policy of this state that meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public unless otherwise provided by law." Section 610.021(1), RSMo, requires any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving the commission or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, including the terms of the settlements.

Recommendation

The MDC make public in an open meeting the final disposition of legal matters discussed at closed meetings.

Auditee's Response

In the interest of open and transparent government and full accountability to Missouri citizens, the Department will evaluate its current practices in light of the SAO's comments. Nonetheless, the Department of Conservation disagrees with your office's legal conclusion that the Missouri Sunshine Law requires the final disposition of legal settlements discussed at closed meetings be announced in an open meeting. Section 610.021(1) RSMo, of the Sunshine Law requires that legal settlements "be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement." This language is in contrast to language in the same section that requires votes involving the exercise of eminent domain "shall be announced or become public" immediately following the vote. Based upon the contrasting statutory language used in the same paragraph, there is clearly a distinction between the terms "made public" and "announced." There is no requirement to "announce" legal settlements, only to make them available as open records. The Department has complied with this *requirement by treating all final legal settlements as open records and providing them to the public upon request.*

Auditor's Comment

The Missouri Sunshine Law does not require the MDC to make public in an open meeting the final disposition of legal matters discussed in closed meetings. However, doing so would provide for transparency and openness regarding these matters. Because the MDC is using taxpayer money to settle lawsuits, it should err on the side of full disclosure once all parties agree to and finalize a settlement.

6. Previous Audit Findings - State Flight Operations

In January 2015, the Office of the State Auditor issued Report No. 2015-003, *State Flight Operations*. The report communicated the results of our audit performed to determine if flights were managed in a cost effective, efficient, and consistent manner.

The audit concluded the state airplane fleet is larger than necessary, there is duplication of efforts between agencies, and despite the low utilization of state aircraft, state agencies incur unnecessary costs for chartered flights. In addition, there were specific concerns related to the MDC, as follows:

- During the 2 years ended December 31, 2013, the Missouri Department of Transportation (MoDOT) and the MDC chartered 67 flights totaling $170,755 (45 by the MoDOT and 22 by the MDC), primarily to provide transportation to MoDOT and MDC commission members, former commission members, and employees. These flights were chartered even though state-owned pressurized passenger planes were available on 67 percent of the days charter flights were used, resulting in approximately $122,000 in unnecessary costs.

- During the 2 years ended June 30, 2013, the MDC spent approximately $117,000 flying governor-appointed commission members to commission meetings held across the state, when commission members of state boards other than the MoDOT and the MDC typically receive motor vehicle mileage for reimbursement of travel costs. We estimate the MDC could have saved $83,000 during the 2-year audit period by providing commissioners mileage reimbursement instead of plane transportation.

- The MDC did not document supervisory reviews of passenger flight reports.

Complete findings, recommendations, and auditee responses are contained in the *State Flight Operations* report.

Department of Conservation
Organization and Statistical Information

The Department of Conservation is constitutionally created pursuant to Article IV, Sections 40(a) and 46. The general functions of the department are to control, manage, restore, conserve, and regulate all bird, fish, game, forestry, and wildlife resources of the state. At June 30, 2014, the department owned 799,007 acres and leased or managed another 204,024 acres of land in the state.

The department is headed by a four-member bipartisan commission, appointed by the Governor with the advice and consent of the Senate. They serve without compensation for staggered 6-year terms.

Commission Members at June 30, 2014

Commissioner	Term Expires
Don C. Bedell	July 1, 2015
James T. Blair, IV	July 1, 2017
Marilynn J. Bradford	July 1, 2019
David W. Murphy	July 1, 2019

During the 2 years ended June 30, 2014, Don R. Johnson, Becky L. Plattner, and Tim E. Dollar also served on the Commission. The Commission appoints a director who serves as the administrative officer of the Department of Conservation. The director appoints other employees and is assisted by 2 deputy directors with programs carried out by the divisions of fisheries, forestry, wildlife, protection, private land services, resource sciences, outreach and education, design and development, administrative services, and human resources.

Robert L. Ziehmer was appointed Director effective January 15, 2010. At June 30, 2014, the department had 1,389 salaried employees and 483 hourly employees.

Appendix A

Department of Conservation
Conservation Commission Fund
Comparative Statement of Receipts, Disbursements, Other Financing Uses,
and Changes in Cash and Investments

		Year Ended June 30,	
		2014	2013
RECEIPTS			
Sales and use tax	$	107,146,851	102,620,395
Permit sales		33,044,440	31,979,931
Sales, rentals and leases		10,304,086	8,692,430
Federal reimbursements		27,945,766	26,543,555
Interest		384,769	389,987
Donations, refunds and miscellaneous		2,710,739	2,556,997
Total Receipts		181,536,651	172,783,295
DISBURSEMENTS			
Personal service		66,967,992	65,273,589
Employee fringe benefits		26,905,607	24,452,204
Operations		69,734,329	62,631,893
Capital improvements and acquisitions		9,565,492	9,736,562
Total Disbursements		173,173,420	162,094,248
RECEIPTS OVER (UNDER) DISBURSEMENTS BEFORE OTHER FINANCING USES		8,363,231	10,689,047
OTHER FINANCING USES			
Appropriations exercised by other state agencies			
OA - Insurance and legal expense		723,247	1,072,277
OA - Worker's compensation		49,740	30,716
OA - Unemployment insurance		97,160	125,516
Office of the State Auditor		46,761	46,439
Department of Revenue		533,678	507,502
Total		1,450,586	1,782,450
RECEIPTS OVER (UNDER) DISBURSEMENTS AND OTHER USES		6,912,645	8,906,597
CASH AND INVESTMENTS, JULY 1		60,725,161	51,818,564
CASH AND INVESTMENTS, JUNE 30	$	67,637,806	60,725,161

Appendix B

Department of Conservation
Comparative Statement of Appropriations and Expenditures

		2014				2013		
		Appropriation Authority	Expenditures	Lapsed Balances		Appropriation Authority	Expenditures	Lapsed Balances
CONSERVATION COMMISSION FUND								
Conservation Programs	$	147,339,487	143,315,763	4,023,724		146,827,160	133,839,219	12,987,941
Statewide Construction		66,000,000	14,219,482	51,780,518	*	49,092,711	14,478,617	34,614,094
Total Conservation Commission Fund	$	213,339,487	157,535,245	55,804,242		195,919,871	148,317,836	47,602,035

* Biennial appropriations set up in fiscal year 2014 are re-appropriations to fiscal year 2015. After the fiscal year-end processing has been completed, the unexpended fiscal year 2014 appropriation balance for a biennial appropriation is established in fiscal year 2015. Therefore, there is no lapsed balance for a biennial appropriation at the end of fiscal year 2014.

Appendix C

Department of Conservation
Comparative Statement of Expenditures (From Appropriations)

	Year Ended June 30,				
	2014	2013	2012	2011	2010
Salaries and wages	$ 66,391,506	64,723,567	62,410,100	62,852,203	67,995,877
Benefits	11,293,882	10,691,037	9,943,744	9,174,857	10,786,377
Travel, in-state	1,396,197	1,306,011	1,337,865	1,171,278	1,355,333
Travel, out-of-state	256,707	274,754	249,204	177,500	227,026
Fuel and utilities	2,196,458	2,015,001	1,888,316	2,028,161	1,882,350
Supplies	22,834,725	21,376,610	21,369,752	18,228,477	17,332,235
Professional development	806,960	640,749	513,644	587,584	585,176
Communication service and supplies	1,793,946	1,726,689	1,533,094	1,484,852	1,459,002
Services:					
Professional	11,500,153	9,570,484	10,508,100	9,253,191	8,173,714
Housekeeping and janitorial	1,160,366	1,028,493	1,020,679	985,109	981,669
Maintenance and repair	3,181,003	3,219,034	2,958,997	2,607,558	2,417,044
Equipment:					
Computer	1,986,424	1,237,239	2,832,650	1,697,738	1,853,299
Motorized	6,587,289	5,484,212	6,638,608	2,060,546	3,450,951
Office	197,398	127,424	422,598	131,147	71,459
Other	2,607,127	1,975,452	1,133,920	1,052,663	984,005
Property and improvements	9,565,492	9,736,562	12,112,625	12,541,649	12,377,777
Building lease payments	452,666	451,643	435,921	499,026	534,615
Equipment rental and leases	1,763,541	1,838,413	1,672,948	1,488,392	1,847,248
Miscellaneous expenses	1,750,909	1,664,789	1,689,330	1,558,641	1,965,719
Refunds	242,579	212,763	192,470	180,347	160,188
Program distributions	9,569,917	9,016,910	8,357,492	11,643,475	7,361,014
Total Expenditures	$ 157,535,245	148,317,836	149,222,057	141,404,394	143,802,078

Appendix D

Department of Conservation
Statement of Changes in General Capital Assets

		Equipment	Buildings	Land	Construction in Progress	Software and Misc. Intangible Assets	Total General Capital Assets
BALANCE, July 1, 2012	$	91,124,001	120,599,495	337,854,737	6,381,221	1,125,219 (5)	557,084,673
Adjustments		384,770 (1)	89,000 (2)	0	378,359 (3)	0	852,129
Additions		7,699,987	3,851,526	4,930,608	494,340	1,143,792	18,120,253
Dispositions		(5,847,435)	(410,973)	(158,297)	(3,843,026)	0	(10,259,731)
BALANCE, June 30, 2013		93,361,323	124,129,048	342,627,048	3,410,894	2,269,011	565,797,324
Adjustments		0	0	0	(411,895) (4)	0	(411,895)
Additions		10,335,120	1,075,169	4,172,308	1,755,152	803,534	18,141,283
Dispositions		(5,861,742)	(3,814,579)	(252,949) (6)	(1,581,599)	0	(11,510,869)
BALANCE, June 30, 2014	$	97,834,701	121,389,638	346,546,407	3,172,552	3,072,545	572,015,843

(1) Adjustment to correct vehicle preparation costs and additional equipment
(2) Adjustment to correct capital improvement costs and building valuations
(3) Adjustment for increase in construction costs
(4) Adjustments for projects no longer scheduled, projects not owned by department, and projects involving like-kind replacements
(5) Amount differs from SAO report 2013-136 due to a prior period adjustment
(6) Amount differs from the amount reported to the Office of Administration (OA) for fiscal year 2014, due to an error on the report submitted to the OA