

NORTH DAKOTA
CORN UTILIZATION COUNCIL
FARGO, NORTH DAKOTA

Audit Report

For the Two-Year Period Ended
June 30, 2014



Office of the State Auditor
Division of State Audit

**LEGISLATIVE AUDIT AND FISCAL REVIEW
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Independent Auditor's Report

Honorable Jack Dalrymple, Governor

Members of the Legislative Assembly

Members of the North Dakota Corn Utilization Council

Tom Lilja, North Dakota Corn Utilization Executive Director

We have audited the accompanying Comparative Statement of Revenues and Expenditures of the North Dakota Corn Utilization Council for the years ended June 30, 2014, and 2013, and the related notes as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of this financial statement in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the financial statement that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the financial statement based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statement.

We believe the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statement referred to above present fairly, in all material respects, the revenues and expenditures of the North Dakota Corn Utilization Council Fund, for the years ending June 30, 2014 and 2013 in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matters

As discussed in Note 1, the financial statement presents only the North Dakota Corn Utilization Council Fund's revenues and expenditures, and do not purport to, and do not present fairly the financial position of the state of North Dakota for the years ending June 30, 2014 or 2013, the changes in its financial position, or where applicable, its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

As discussed in Note 1, the financial statement is presented and audited in accordance with North Dakota Century Code 4-24-10. This financial statement is not intended to be a complete presentation of the North Dakota Corn Utilization Council Fund's assets and liabilities. Our opinion is not modified with respect to this matter.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated December 29, 2014 on our consideration of the North Dakota Corn Utilization Council's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, grant agreements, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the North Dakota Corn Utilization Council's internal control over financial reporting and compliance.



Robert R. Peterson
State Auditor

December 29, 2014

***Independent Auditor's Report on Internal Control Over
Financial Reporting and on Compliance and Other Matters
Based on an Audit of a Financial Statement Performed in
Accordance with Government Auditing Standards***

Honorable Jack Dalrymple, Governor

Members of the Legislative Assembly

Members of the North Dakota Corn Utilization Council

Tom Lilja, North Dakota Corn Utilization Council Executive Director

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, the financial statement of the North Dakota Corn Utilization Council, for the years ended June 30, 2014, and 2013, and the related notes to the financial statement and have issued our report thereon dated December 29, 2014.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered North Dakota Corn Utilization Council's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of North Dakota Corn Utilization Council's internal control. Accordingly, we do not express an opinion on the effectiveness of North Dakota Corn Utilization Council's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the North Dakota Corn Utilization Council's financial statement is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain matters that we reported to management of the North Dakota Corn Utilization Council in a letter dated December 29, 2014.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.



Robert R. Peterson
State Auditor

December 29, 2014

Comparative Statement of Revenues and Expenditures

For Fiscal Ended June 30

<u>Revenues:</u>	<u>2014</u>	<u>2013</u>
Corn Assessments (net of refunds of \$175,094 and \$280,090)	\$ 3,375,588	\$ 5,969,197
Cash and Investment Earnings	7,942	7,353
Miscellaneous General Revenue	557	3,000
Total Revenues	\$ 3,384,087	\$ 5,979,550
<u>Expenditures:</u>		
Grants, Benefits & Claims	\$ 3,199,882	\$ 3,950,864
Salaries - Permanent	280,965	195,850
Travel	189,175	158,266
Professional Development	182,516	167,658
Operating Fees and Services	144,918	107,560
Fringe Benefits	102,345	67,074
Miscellaneous Supplies	54,955	42,765
Rentals/Leases - Bldg/Land	37,995	22,710
Printing	26,702	13,884
Professional Fees and Services	23,622	37,617
IT - Communications	12,432	6,713
Postage	8,751	5,770
Supplies - IT Software	8,083	5,313
Repairs	7,902	833
Office Equip & Furniture-Under	6,498	1,027
Rentals/Leases-Equipment & Other	6,322	5,772
IT Equipment under \$5,000	6,013	2,535
Office Supplies	5,053	3,500
IT Contractual Services & Repairs	3,642	16,222
Bldg, Grounds, Vehicle Supply	2,955	5,315
Utilities	1,987	1,581
Insurance	1,059	806
Supply/Material - Professional	1,041	-
Other Equipment under \$5,000	390	114
IT - Data Processing	251	80
Total Expenditures	\$ 4,315,454	\$ 4,819,829
Revenue Over (Under) Expenditures	\$ (931,367)	\$ 1,159,721

See Notes to the Comparative Statement of Revenues and Expenditures.

Notes to the Comparative Statement of Revenues and Expenditures

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The responsibility for the financial statement, the internal control structure, and compliance with laws and regulations belongs to the management of the North Dakota Corn Utilization Council (Council). A summary of the significant accounting policies follows:

A. Reporting Entity

For financial reporting purposes, the Council includes all funds, programs, and other activities over which it is financially accountable. The Council does not have any component units as defined by the Government Accounting Standards Board. The Council is part of the state of North Dakota as a reporting entity.

The Council was established with the authority to contract and cooperate with any person for market maintenance and expansion, utilization research, transportation, and education; accept donations of funds, property, services or other assistance from any source; and provide educational and informational materials. This is accomplished through the levying of an assessment on all varieties of corn grown in the state, except sweet corn and popcorn, sold to a designated handler. The amount of the levy is one-quarter of one percent of the value of a bushel.

The Council has a close working relationship with the North Dakota Corn Growers Association (Association). This relationship is further explained in Note 2 to the financial statements. The comparative statement of revenues and expenditures includes only activities of the Council, which is one department that has one division. The Council is responsible for and is funded under a continuing appropriation and receives no funding from the State Legislature.

B. Reporting Structure

The comparative statement of revenues and expenditures includes all activities of the reporting entity as defined above. These activities are funded from fund 270, the Corn Council Fund. The comparative statement of revenues and expenditures is a combined statement to give the users an overview of the agency's activity.

C. Basis of Presentation

North Dakota Century Code 4-24-10 requires certain commodity promotion groups to prepare a report for the legislative assembly. As part of this report the applicable commodity groups are required to prepare a single-page uniform statement of revenues and expenditures.

Revenues and expenditures on the comparative statement of revenues and expenditures are principally reported on the modified accrual basis of accounting which is generally accepted accounting principles (GAAP) for governmental fund types.

Under the modified accrual basis of accounting, revenues are recognized when susceptible to accrual (i.e. measurable and available). Measurable means the amount can be determined, available means due and collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. Revenues are considered available if they are collected within a year after fiscal year-end. Expenditures are recorded when goods or services are received.

Exceptions include: principal and interest expenditures which are recorded when due; compensated absences which are recorded when paid; and claims and judgments.

D. Other GAAP Reporting Differences

GAAP financial statements would include a balance sheet. GAAP financial statements would also provide additional note disclosures.

NOTE 2 – RELATED PARTIES

The Council contracts with the Association, a related organization through similar control and management for promotional activities; the Executive Director of the Council is also the Executive Director of the Association. The Council and the Association have agreed upon a policy in which the Association's Board of Directors will be the designated advisory board of the Council.

For fiscal year 2014 and 2013, the Council paid \$50,000 and \$36,000 for the promotional advertising on the Association's pick-up truck, respectively.

The Northern Corn Development Corporation (Corporation) is a related party of the North Dakota Corn Utilization Council. The Northern Corn Development Corporation, a non-profit, was formed for the purpose of the business planning stage for nitrogen fertilizer plant within the tri-state area. In fiscal year 2013 the North Dakota Corn Utilization paid the Northern Corn Development Corporation \$925,000 for research on nitrogen fertilizer.

As noted in Note 1, the Council is an agency of the state of North Dakota; as such, other agencies of the state are related parties. This includes North Dakota State University (NDSU) and the Northern Crops Institute (NCI). For fiscal years 2014 and 2013, the Council made payments to NDSU for corn research project contracts of \$1.5 million and \$1.04 million, respectively. For fiscal year 2014, the Council made a \$77,000 payment to NCI for Feed Center equipment upgrades.

The Council also has a particularly close working relationship with the US Grains Council (USGC); for fiscal years 2014 and 2013, the Council paid \$186,000 and \$156,000, respectively for promotional marketing and development contracts.

NOTE 3 – OTHER SIGNIFICANT ITEMS

The Council has cash and investment reserves of \$4,387,388 and 4,868,068 at June 30, 2014 and 2013, respectively. Based on the average monthly expenditures for fiscal year 2014 and 2013, this amount represents approximately 12 months of expenditures for each fiscal year.

NOTE 4 – SUBSEQUENT EVENTS

The Council has committed \$1 million to the National Agricultural Genotyping Center (NAGC), for the new Fargo, North Dakota site location; of the \$1 million, \$200,000 is for two board seats.

Supplementary Information

Responses to LAFRC Audit Questions

The Legislative Audit and Fiscal Review Committee (LAFRC) requests that certain items be addressed by auditors performing audits of state agencies.

- 1. What type of opinion was issued on the financial statements?*

Unmodified.

- 2. Was there compliance with statutes, laws, rules, and regulations under which the agency was created and is functioning?*

No. There was noncompliance with NDCC 54-21-24.1, surrounding the review of the renewal of the office lease agreement, see the Governance Communication on page 10 of this report.

- 3. Was internal control adequate and functioning effectively?*

Yes.

- 4. Were there any indications of lack of efficiency in financial operations and management of the agency?*

No.

- 5. Has action been taken on findings and recommendations included in prior audit reports?*

Yes.

- 6. Was a management letter issued? If so, provide a summary below, including any recommendations and the management responses.*

Yes. The Governance Communication on page 10 of this report contains five informal recommendations related to: classification of board member compensation, conflict of interest statements, maintaining two sets of books, omitted ethical requirements, and inadequate review of office renewal lease agreement.

LAFRC Audit Communications

1. *Identify any significant changes in accounting policies, any management conflicts of interest, any contingent liabilities, or any significant unusual transactions.*

None noted.

2. *Identify any significant accounting estimates, the process used by management to formulate the accounting estimates, and the basis for the auditor's conclusions regarding the reasonableness of those estimates.*

None noted.

3. *Identify any significant audit adjustments.*

None.

4. *Identify any disagreements with management, whether or not resolved to the auditor's satisfaction relating to a financial accounting, reporting, or auditing matter that could be significant to the financial statements.*

None.

5. *Identify any serious difficulties encountered in performing the audit.*

None.

6. *Identify any major issues discussed with management prior to retention.*

This is not applicable for audits conducted by the Office of the State Auditor.

7. *Identify any management consultations with other accountants about auditing and accounting matters.*

None.

8. *Identify any high-risk information technology systems critical to operations based on the auditor's overall assessment of the importance of the system to the agency and its mission, or whether any exceptions identified in the six audit report questions to be addressed by the auditors are directly related to the operations of an information technology system.*

ConnectND Finance and Human Resource Management System (HRMS) are the most high-risk information technology systems critical to the operations of the state. No formal finding is directly related to the operations of the information technology system.

Governance Communication

December 29, 2014

To: The North Dakota Corn Utilization Council

The Legislative Audit and Fiscal Review Committee

We have audited the comparative financial statement of revenues and expenditures of the North Dakota Corn Utilization Council Fund of the state of North Dakota for the years ending June 30, 2014, and 2013, and have issued our report thereon dated December 29, 2014. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards and *Government Auditing Standards*, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated August 20, 2014. Professional standards also require that we communicate to you the following information related to our audit.

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Council are described in Note 1 to the comparative statement of revenues and expenditures. No new accounting policies were adopted and the application of existing policies did not change during the years ending June 30, 2014, and 2013. We noted no transactions entered into by the governmental unit during the year for which there is a lack of authoritative guidance or consensus. There are no significant transactions that have been recognized in the comparative statement of revenues and expenditures in a different period than when the transaction occurred.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. There were no known or likely misstatements that we needed to report to management.

Disagreements with Management

For purposes of this letter, professional standards define a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated December 29, 2014.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a “second opinion” on certain situations. If a consultation involves application of an accounting principle to the governmental unit’s financial statements or a determination of the type of auditor’s opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the governmental unit’s auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention. It should be noted that the retention of the State Auditor is a matter of state law and is not under the control of the North Dakota Corn Utilization Council.

The following presents our informal recommendations.

CLASSIFICATION OF BOARD MEMBER COMPENSATION

North Dakota Corn Utilization Council Board Members are classed as independent contractors rather than as employees; thus compensation paid to the North Dakota Corn Utilization Council Board Members was not processed through payroll. We also noted the Board Member compensation was coded to Non State Employee Travel (521060) rather than Salaries (511005). Board Member compensation was as follows: \$14,160 for fiscal year 2013; \$12,900 for fiscal year 2014; totaling \$27,060. Non-compliance with OMB policy 101, potential IRS implications and misstated financial statements. North Dakota Corn Utilization Council did not realize that Board Members needed to be classified as employees.

OMB Fiscal Administrative Policy 101:

The State of North Dakota is required by law to withhold payroll taxes on compensation paid where an employer-employee relationship exists. This precludes making payments to individuals from operating expenses where there is an employer-employee relationship.

The Internal Revenue Service uses many factors to distinguish independents or independent contractors from employees. Factors such as control over method of doing work, training of new employees, place where work is done, determination of hours, source of tools and supplies, etc., are used as qualification criteria. The approach taken by the IRS varies greatly from job to job, agent to agent, and year to year.

The following minimum guidelines should be used to determine whether an individual should be classified as an employee or as an independent contractor as described in the internal revenue code:

Generally, there is an employer-employee relationship when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work, but also as to the details and means by which the result is accomplished. The employer does not have to actually direct or control the way the services are performed; it is enough if he has the right to do so. The following factors are also important in determining whether a person is an employer: right to discharge; furnishing of tools; furnishing a place to work. If the employer-employee relationship in fact exists it does not matter that the employee is called an independent contractor. Substitutes who are properly working in place of regular employees are considered employees for purposes of withholding.

IRS Publication 963, chapter 4, in part states:

Classification Issues Involving Government Employee

The following discussion addresses some special worker classification situations involving governmental employees.

Public Officials

The term "public official" refers to someone who has authority to exercise the power of the government and does so as an agent and employee of the government. The Internal Revenue Code does not define the term "public official," but Regulation §1.1402(c)-2(b), explaining the applicability of self-employment tax, indicates that holders of "public office" are not in a trade or business and are therefore not subject to self-employment tax. If self-employment tax is not applicable to the services, these individuals are employees. This Regulation states that the performance of the functions of a public office does not constitute a trade or business. An exception applies for certain public officials paid solely on a fee basis (see Chapter 5). Otherwise holders of public office are excepted from self-employment tax and are presumed to be employees receiving wages. The regulations give the following specific examples of positions that constitute "public office":

- Governor*
- Mayor*
- Member of a legislature or elected representative (e.g., elective office)*
- County commissioner*
- State or local judge, or justice of the peace*
- County or city attorney, marshal, sheriff, constable*
- Registrar of deeds*
- Tax collector or tax assessor*
- Road commissioners*
- Members of boards and commissions, such as school boards, utility districts, zoning boards, and boards of health*

Elected Officials

Under section 3401, elected officials are employees for income tax withholding purposes.

For social security and Medicare purposes, elected officials (also referred to as "individuals in elective positions"), are subject to a degree of control that typically makes them employees under the common law, and therefore subject to these taxes. Elected officials are responsible to the

public, which has the power to vote them out of office. Elected officials may also be subject to recall by the public or a superior official. Very few elected officials have sufficient independence to be considered independent contractors. Regardless of any determination for social security and Medicare purposes, elected officials are employees for income tax withholding purposes.

Recommendation:

We recommend the North Dakota Corn Utilization Council work with OMB to properly setup the Board Members as employees to have their compensation processed through payroll to comply with OMB policy and IRS rules and to ensure proper coding for financial statement purposes.

North Dakota Corn Utilization Council Response:

The Corn Utilization Council disagrees. Council directors currently pay taxes on their stipends when income is reported with a 1099. Council directors also employ tax accountants for IRS compliance. The Council will continue with issuing 1099's.

Auditor's Concluding Remarks:

We conclude the North Dakota Corn Utilization Council Board Members are misclassified as independent contractors rather than as employees - making the North Dakota Corn Utilization Council in noncompliance with OMB policy and IRS regulations. We encourage the North Dakota Corn Utilization Council to contact OMB to properly setup their Board Members as employees.

CONFLICT OF INTEREST STATEMENTS

We noted the North Dakota Corn Utilization Council members and staff are not annually acknowledging and/or disclosing potential conflicts of interest. The Council could potentially enter into an agreement or contract that could be a conflict of interest without their knowledge because they were not properly informed of the potential conflict up-front, and potential non-compliance with NDCC 12.1-13-02. Per discussion with the client, having everyone review and sign it annually was overlooked as new staff and members are initially required to sign the conflict of interest.

North Dakota Corn Utilization Council's Conflict of Interest Policy, states in part, *It will be the practice of the North Dakota Corn Utilization Council that its members and staff shall annually acknowledge by signature that they have read and understand the Conflict of Interest statement shown in the North Dakota Century Code Chapter 12.1-13.*

NDCC 12.1-13-02, part 2, in part states, *A person is guilty of a class A misdemeanor if as a public servant he takes official action which is likely to benefit him as a result of an acquisition of a pecuniary interest in any property, transaction, or enterprise, or of a speculation or wager, which he made, or caused or aided another to make, in contemplation of such official action.*

Committee of Sponsoring Organizations of the Treadway Commission (COSO) Internal Control - Integrated Framework states management must continually demonstrate, through words and actions, a commitment to high ethical standards. A written code of conduct and conflict of interest statements are an important part of a system of internal control to foster a strong ethical climate and shared values and teamwork in pursuit of entity's objectives.

Recommendation:

We recommend the North Dakota Corn Utilization Council follow their own conflict of interest policy and annually require all staff and members:

1. Complete a conflict of interest statement and
2. Acknowledged they have read and understand the policy.

North Dakota Corn Utilization Council Response:

The Corn Utilization Council agrees. Conflict of interest statements were incorporated in our 2012 Strategic Plan for all board and staff members. New board and staff members since that time have signed conflict of interest statements. We agree that an annual review of the conflict of interest policy is necessary and can be conducted at the July summer board meeting for the board and staff when new board members are starting board service.

MAINTAINING TWO SETS OF BOOKS

The North Dakota Corn Utilization Council is maintaining two set of books. The council re-enters and reconciles all items in QuickBooks that were originally recorded in PeopleSoft. The Council uses QuickBooks to search for items and run reports. By maintaining two software systems, the Council is double entering all entries, which is not effective or efficient. The Council believes it is easier to search for items, reports are easier to run, and it more easily separates the North Dakota Corn Growers Association's (a related party) and the North Dakota Corn Utilization Council's accounting items.

A major tenant of an effective system of internal control is operating effectively and efficiently. To operate effectively and efficiently, one computer system should be maintained and reports should be customized in PeopleSoft, so time can be saved in not double entering all accounting entries into both systems.

Recommendation:

We recommend the North Dakota Corn Utilization Council:

1. Discontinue the use of the QuickBooks accounting system and only use PeopleSoft and
2. Work with OMB to develop or customize the needed reports.

North Dakota Corn Utilization Council Response:

The Corn Utilization Council disagrees. Quickbooks provides the Council with the ability to customize reports as needed. Due to projects and grants being added annually and throughout the year, it would be difficult and time consuming to work with OMB to make changes to our reports as frequently as would be necessary. We require the ability to track payments for different grants each year. These grants are categorized the same in PeopleSoft, so we are unable to separate them out as needed for our purposes. Because the information needed to enter payables into QuickBooks was already obtained when it was entered into PeopleSoft, the time required to re-enter these is minimal. The information we are able to derive from the reports, with minimal effort, saves us much more time than the double entry requires.

Auditor's Concluding Remarks:

We stand by our recommendation that the North Dakota Corn Utilization Council contact and work with OMB to fully utilize and understand the capabilities of the PeopleSoft System for recording and reporting. PeopleSoft will provide all the needed information without duplicate entry.

OMITTED ETHICAL REQUIREMENTS

The North Dakota Corn Utilization Council's policy manuals for board members and employees does not include an ethics policy. Proper business conduct not effectively communicated to employees. Management was under the assumption that their current manuals covered the issue.

The Office of Management and Budget Policy on Fraud Risk Assessments states in part, *that as a part of the assessment, agencies need to look at control environment and information technology as both have a significant effect on fraud risk for most functions. The control environment includes having policies and procedures including a code of ethical conduct available to employees.*

COSO Internal Control - Integrated Framework states in part, *Accountability is interconnected with leadership, insofar as the tone at the top and at various levels of the organization is strong where internal control responsibilities are understood, carried out, and reinforced. Tone helps to establish and enforce accountability through:*

- *Clarity of expectations from senior management and the board of directors addressing issues such as integrity and ethics, conflict of interest, illegal or otherwise improper activities, and anticompetitive arrangements (e.g. a code of conduct is developed and communicated to all employees and outsourced service providers, and enforced).*

Recommendation:

We recommend the North Dakota Corn Utilization Council Implement a code of ethical conduct and make this available to all employees and board members.

North Dakota Corn Utilization Council Response:

The Corn Utilization Council agrees. The ND Corn Council will implement a code of ethical conduct that will be made available to all employees and board members by the July 2015 summer board meeting.

INADEQUATE REVIEW OF OFFICE RENEWAL LEASE AGREEMENT

We noted the North Dakota Corn Utilization Council did not have the Attorney General's Office review the renewal of the building lease agreement nor did Office of Management and Budget approve it. Noncompliance with Attorney General's 'Contract Drafting and Review Manual' and NDCC 54-21-24.1. The North Dakota Corn Utilization Council did not know that lease renewals also needed to be reviewed by the Attorney General's Office.

North Dakota Office of Attorney General's Contract Drafting and Review Manual, Chapter 2, states in part, *All leases and rental agreements for office space must be reviewed for legal sufficiency by the Attorney General and approved by the OMB. N.D.C.C. § 54-21-24.1. NDCC 54-21-24.1, states in part, A lease or rental agreement or renewal of the lease or rental agreement for the lease or rental of buildings or portions of buildings for use by state agencies, departments, offices, officers, boards, and institutions, other than institutions under the board of higher education, the adjutant general and department of transportation office and storage space for field engineering and maintenance crews, unless approved may be entered by the director of the office of management and budget subject to a determination of the legal sufficiency of the lease or rental agreement.*

Recommendation:

We recommend the North Dakota Corn Utilization Council have all building leases, including renewals, reviewed by the Attorney General's Office and approved by Office of Management and Budget.

North Dakota Corn Utilization Council Response:

The Corn Utilization Council agrees. Future building leases for the Corn Council including renewals will be reviewed by the Attorney General's Office and approved by the Office of Management & Budget.

This information is intended solely for the use of the North Dakota Corn Utilization Council, the Legislative Audit and Fiscal Review Committee and management of the North Dakota Corn Utilization Council and is not intended to be and should not be used by anyone other than these specified parties.

Very truly yours,



Cory Wigdahl, CFE
Auditor In-Charge

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