

NORTH DAKOTA
DRY BEAN COUNCIL
Frazee, Minnesota

Audit Report

For the Two-Year Period Ended
June 30, 2014



Office of the State Auditor
Division of State Audit

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STATE OF NORTH DAKOTA
OFFICE OF THE STATE AUDITOR
STATE CAPITOL
600 E. BOULEVARD AVENUE – DEPT 117
BISMARCK, NORTH DAKOTA 58505

Independent Auditor's Report

Honorable Jack Dalrymple, Governor

Members of the Legislative Assembly

Members of the North Dakota Dry Bean Council

Tim Courneya, North Dakota Dry Bean Council Administrator

We have audited the accompanying Comparative Statement of Revenues and Expenditures of the North Dakota Dry Bean Council Fund of the state of North Dakota, 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 that 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 Dry Bean Council Fund, for the years ended 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 Dry Bean 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 as of June 30, 2014 or 2013, 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 Dry Bean 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 November 17, 2014 on our consideration of the North Dakota Dry Bean Council's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and 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 Dry Bean Council's internal control over financial reporting and compliance.



Robert R. Peterson
State Auditor

Fargo, North Dakota

November 17, 2014



STATE OF NORTH DAKOTA
OFFICE OF THE STATE AUDITOR
STATE CAPITOL
600 E. BOULEVARD AVENUE – DEPT 117
BISMARCK, NORTH DAKOTA 58505

***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 Dry Bean Council

Tim Courneya, North Dakota Dry Bean Council Administrator

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 Dry Bean Council, for the two-year period ended June 30, 2014, and the related notes to the financial statement and have issued our report thereon dated November 17, 2014.

Internal Control over Financial Reporting

In planning and performing our audit of the financial statements, we considered North Dakota Dry Bean 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 Dry Bean Council's internal control. Accordingly, we do not express an opinion on the effectiveness of North Dakota Dry Bean 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. We consider the deficiency described in the schedule of findings, recommendations and managements response as finding 14-1 to be a material weakness.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the North Dakota Dry Bean 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 Dry Bean Council in a letter dated November 17, 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

Fargo, North Dakota

November 17, 2014

Financial Statement

Comparative Statement of Revenues and Expenditures

<u>REVENUES:</u>	<u>FY14</u>	<u>FY13</u>
Bean Assessments (net of refunds of \$90,806 and \$83,323)	\$ 716,828	\$ 1,013,283
Interest on Investments	2,851	3,207
Total Revenues	<u>\$ 719,679</u>	<u>\$ 1,016,490</u>
<u>EXPENDITURES:</u>		
Management and Consulting Services	\$ 771,742	\$ 1,034,769
Audit		2,263
Non State Employee Travel	7,850	9,529
Insurance	595	601
Miscellaneous Grants		5,000
Total Expenditures	<u>\$ 780,187</u>	<u>\$ 1,052,162</u>
Revenue Over Expenditures	<u>\$ (60,508)</u>	<u>\$ (35,672)</u>

See Notes to the Financial Statement.

Notes to the Special-Purpose Financial Statement

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

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

A. Reporting Entity

For financial reporting purposes, the Council includes all funds, programs, and 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 created by the 1977 Legislature with the intended purpose that the production, development, marketing, and promotion of dry beans in North Dakota is important to the general welfare of the people of North Dakota. This accomplishment required the establishment of the North Dakota Dry Bean Council for that purpose and with the objectives of contributing to the stabilization and improvement of the agriculture economy of the state.

The Council is composed of one participating grower elected from each of the six districts established in chapter 4.1-06-02 of the NDCC. An assessment of 10 cents per hundredweight is imposed on all dry beans grown in the state and sold to a designated handler. All moneys levied and collected by the North Dakota Dry Bean Council are to be deposited in an account designated "Dry Bean Fund" at the State Treasurer and used for carrying out Council objectives.

The Northharvest Bean Growers Association performs the administrative duties and the record-keeping requirements of the Council under contract. This related party is further explained in Note 2 to the special-purpose financial statement. The special-purpose financial statement 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.

B. Reporting Structure

The special-purpose financial statement includes all activities of the reporting entity as defined above. These activities are funded from fund 241, the Dry Bean 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 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.

D. 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 Northarvest Bean Growers Association (Association) is a related party of the Council. The Council contracts with the Association for management and consulting services. For fiscal years 2014 and 2013 the Council paid the Association \$771,242 and \$1,034,269, respectively, for services. The Association pays salaries and benefits for the Administrator and Secretary of the Council and the Association owns all fixed assets.

NOTE 3 – OTHER SIGNIFICANT ITEMS

The Council has cash and investment reserves of \$948,333 and \$938,594 at June 30, 2014 and June 30, 2013, respectively. Based on the average monthly expenditures for fiscal year 2014 and 2013, this amount represents approximately 15 and 11 months of expenditures, respectively.

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 special-purpose financial statement?*

Unmodified.

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

Yes.

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

No, there is a lack of segregation of duties, however, due to the small size of the Council it is not feasible to implement. For additional commentary see Finding 14-1 on page 10.

- 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?*

There were no recommendations in the prior audit report.

- 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 11 of this report contains two informal recommendations related to a classification change of Board Member compensation and assessment collection.

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 special-purpose financial statement.*

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.*

None.

Findings, Recommendations and Management's Response

SEGREGATION OF DUTIES (Finding 14-1)

Condition:

The ND Dry Bean Council lacks segregation of duties surrounding expenditures and assessment refund payments since the Council has only two employees, who are husband and wife. They are responsible for all duties surrounding expenditures and assessment refund payments.

Criteria:

The Committee of Sponsoring Organizations (COSO) states that adequate controls and the monitoring of those controls are important components of risk management.

Cause:

The ND Dry Bean Council has limited resources and it is not feasible to hire additional staff to properly distribute job duties.

Effect:

A lack of internal controls increases the risk for fraud and errors.

Recommendation:

Due to the small size and economic realities of the ND Dry Bean Council, it is not feasible to obtain adequate segregation of duties. To mitigate the risks, we recommend:

- The Council implement use of the Lockbox, and
- The ND Dry Bean Council Board of Directors remain involved in the financial affairs of the Council and consider having the Chairman review and approve all revenues and expenditures including assessment and refund transactions quarterly.

ND Dry Bean Council Response:

Linda Rosen from the State Bank of ND has provided the ND Dry Bean Council with the process to implement the use of the Lockbox. The Council will consider the establishment of a Lockbox during their fall 2014 Council meeting.

We can provide the Chair of the Council with the Office of Management and Budget monthly Suspense Report by Detailed Account which includes the Itemized Transaction Registry. Three monthly reports could be sent to cover a quarter, requesting the review and signature of chair after review. Chair can return signed copy to the Council office and file accordingly

Governance Communication

November 17, 2014

To: The North Dakota Dry Bean Council

The Legislative Audit and Fiscal Review Committee

We have audited the financial statement of the governmental activities of the North Dakota Dry Bean Council for the two year period ended June 30, 2014, and have issued our report thereon dated October 20, 2104. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing 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.

Significant Audit Findings

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the North Dakota Dry Bean Council are described in Note 1 to the financial statements. No new accounting policies were adopted and the application of existing policies was not changed during the two year period. 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 financial statements 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. None of the misstatements detected as a result of audit procedures and corrected by management were material, either individually or in the aggregate, to the financial statements taken as a whole.

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 November 17, 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.

The following presents our informal recommendations.

Classification of Board Member Compensation

Condition:

The Council is coding the board member \$135 a day per diem to account 521060, non-employee travel. This expense should be coded to 511005, salaries.

Effect:

Not in compliance with OMB policy 191 regarding employer/employee relationships.

Cause:

The Council was unaware a change to coding was needed.

Criteria:

Per OMB policy 101, the state of North Dakota is required 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 (IRS) 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.

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** (Emphasis added)

Committee of Sponsoring Organizations (COSO) of the Treadway Commission publication Internal Control - Integrated Framework: Proper design and implementation of internal control policies and procedures for performance measures, segregation of duties, approval, monitoring, and verification methods are necessary to ensure objectives are effectively achieved.

Recommendation:

We recommend the Council contact the payroll department at OMB and supply them with the necessary information to begin coding the \$135 board member per diem to account 511005.

North Dakota Dry Bean Council Response:

The Council has contacted Tina Bauer, State Payroll Manager to learn each Council member will need to complete a W-4, I-9, HRMS Personal Data, and direct deposit form. This will be completed during the 2014 fall meeting. All of these records will be given to Tina.

Assessments

Condition:

A first purchaser did not send the correct assessment within the required time period. The amount due for the last quarter of 2012 was \$4,349.48, however only \$3,200.95 was submitted with the first quarter of 2013 assessment.

Effect:

Not in compliance with NDCC 4.1-06-10.

Cause:

The Council did not contact the first purchaser when the 4th quarter assessment was not received nor did they verify if the amount was correct.

Criteria:

NDCC 4.1-06-14 states that each designated handler shall forward to the Council assessments collected by the handler no later than the thirtieth day after the end of each calendar quarter.

Recommendation:

We recommend the Council ensure that all first purchaser assessments are received in a timely manner and for the proper amount.

North Dakota Dry Bean Council Response:

Council staff has collected from designated handler the amount owed (\$1,148.53) and made deposit 10-13-14. Council staff will ensure that all first purchaser assessments are received in a timely manner and for the proper amount by reviewing each file within 30 days of quarter ending.

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



Mary Feltman, CPA
Auditor In-Charge

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