

Secretary of State Audit Report

Kate Brown, Secretary of State

Gary Blackmer, Director, Audits Division



Oregon Department of Aviation: Continue Improvements Over Contract Monitoring

Summary

The objective of our audit was to determine if the Department of Aviation's expenditures for the fiscal years ended June 30, 2009 and 2010 were properly authorized, reasonable, adequately supported, had a relevant business purpose and were made in accordance with applicable grant and contract requirements. We performed this audit to comply with Oregon Revised Statute 835.065, which requires the Secretary of State to audit all necessary expenses of the department.

We found that the Department of Aviation should continue to improve its processes over contract monitoring. We recommend department management ensure legal sufficiency reviews are performed for all contracts as required by Oregon Statute.

Agency Response

The department's response is attached at the end of this report.

Background

The mission of the Oregon Department of Aviation (department) is to support Oregon communities by preserving and enhancing aviation safety, infrastructure, and development. The department operates 28 state airports and registers all pilots and non-military aircraft based in Oregon.

In addition, the department administers various grants for municipal and private airports to promote aviation in Oregon. The department receives federal funds for capital construction projects, system planning, and development of state-owned and public-use airports.

Oregon Revised Statute 835.065 requires the Secretary of State to perform an audit of all necessary expenses of the department. In the prior audit report (see Secretary of State Audit Report No. 2009-17), we recommended department management:

- verify that changes to its contract monitoring system ensure expenditures are made within contract terms;
- ensure valid contracts are in place and appropriate signatures and approvals are obtained prior to making contract payments;
- implement controls to ensure expenditures are properly coded to the correct project and federal grant award; and
- correct any remaining coding errors in the accounting system.

We followed-up on the department's implementation of these recommendations during this audit.

Audit Results

We found the department has made improvements over its grants and contract monitoring processes since the completion of the prior audit. We found that expenditures were properly authorized, reasonable, adequately supported, had a relevant business purpose and were made in accordance with applicable contract and grant requirements with the following exception.

The department should continue to improve its contract monitoring process

The department contracts for various construction and maintenance services at airports, such as repaving airport runways and taxiways. Oregon law states that the Attorney General shall approve for legal sufficiency all personal services contracts, all architectural and engineering services contracts, and all information technology contracts in excess of \$75,000. Without a proper legal sufficiency review, contracts run the risk of not including necessary provisions or including inappropriate provisions.

We reviewed department expenditures incurred from July 1, 2008 through June 30, 2010, which included reviewing 13 contracts that represented 84% of contract-related payments. We found four contracts were not reviewed for legal sufficiency as required by Oregon Revised Statute 291.047. For three of the four contracts, the department misinterpreted the Attorney General's approval of the underlying invitation to bid as approval of legal sufficiency for the resulting contract. The fourth contract was entered into in 2007, prior to the department's improvement of its contract monitoring process.

Recommendations

We recommend department management continue to improve its contract monitoring process to ensure legal sufficiency reviews are performed for all contracts as required by Oregon Statute. We recommend department management determine if there are any other contracts that lack legal sufficiency review and work with the Attorney General to determine a plan of action for contracts lacking legal sufficiency review.

Objective, Scope and Methodology

As required by ORS 835.065, the objective of our audit was to audit all necessary expenses of the department. Specifically, we determined whether the department's expenditures for the fiscal years ended June 30, 2009 and 2010, were:

- properly authorized, reasonable, adequately supported, and had a relevant business purpose;
- in accordance with contract requirements; and
- properly coded to the correct grant award, as applicable.

To accomplish our audit objective, we made inquiries of department personnel, reviewed applicable policies, procedures, laws and regulations, and reviewed supporting documentation. We tested a sample of expenditure transactions totaling about \$5.6 million, which represented more than 44% of total expenditures for the fiscal years ended June 30, 2009 and 2010. The scope of our audit did not include reviewing the use of grant funds provided to municipal and private airports.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.



Oregon

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Gary Blackmer, Director
Secretary Of State Audits Division
255 Capitol St, NE Suite 500
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RE: Secretary Of state Audit Report for Oregon Department of Aviation

Dear Mr. Blackmer,

Thank you for the opportunity to provide a response to the draft Audit report for Oregon Department of Aviation (ODA). While the report noted that ODA has made improvements over its grants and contract monitoring processes since the completion of the prior audit, the audit results found:

Finding:

"Four contracts were not reviewed for legal sufficiency as required by Oregon Revised Statute 291.047. For three of the four contracts, the department misinterpreted the Attorney General's approval of the underlying invitation to bid as approval of legal sufficiency for the resulting contract. The fourth contract was entered into in 2007, prior to the department's improvement of its contract monitoring process."

ODA Response:

ODA is in general agreement with the findings of the Secretary of State Auditors. For each of the four contracts, the Department of Aviation Director and Contracts manager submitted the agreement for work to DOJ with a good faith belief that they were asking for legal sufficiency review. ODA received "approval" of the UNSIGNED contract agreements with appropriate email trail.

The misunderstanding by ODA staff occurred as a result of misinterpretation of the requirement for subsequent review of contracts after initial approval without the words "Legal Sufficiency" in email or on the documents themselves.

To address this discrepancy in contract approval, ODA has taken the following actions:

1. Submitted all four of the contracts in question to DOJ for review. DOJ attorneys have reviewed and provided a letter confirming the incomplete follow through to obtain legal sufficiency and declining to provide legal sufficiency certification post-completion of the contracts unless required for future legal action.
2. ODA has put in place an Interagency Agreement with Department of Administrative Services for contracting expertise including supervision and review of all ODA contracts.
3. ODA has expanded communication with DOJ to ensure clarity in contract approval/legal sufficiency.

4. ODA Interim Director is the only final approval authority for contracts and will not sign or execute any contract requiring legal sufficiency without such ratification.

5. ODA is reviewing all open contracts to make sure they have legal sufficiency ratification per Secretary of State Audits Division recommendation.

Thank you again for the opportunity to provide actions taken in response to the Secretary of State Audit results. The agency is in a stronger position as a result of the audit. If you have any questions, please call Mitch Swecker at 503-378-2523.

Regards,



Mitch Swecker
Interim Director

About the Secretary of State Audits Division

The Oregon Constitution provides that the Secretary of State shall be, by virtue of her office, Auditor of Public Accounts. The Audits Division exists to carry out this duty. The division reports to the elected Secretary of State and is independent of the Executive, Legislative, and Judicial branches of Oregon government. The division audits all state officers, agencies, boards, and commissions and oversees audits and financial reporting for local governments.

Audit Team

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This report, a public record, is intended to promote the best possible management of public resources. Copies may be obtained from:

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The courtesies and cooperation extended by officials and employees of the Department of Aviation during the course of this audit were commendable and sincerely appreciated.