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Post Audit Review

Oregon Needs to Modernize Cannabis Laws to Help Grow the State's Economy and to Ensure Equitable Opportunities and Benefits for all Communities, April 2023, Report 2023-15

To: Oregon Liquor and Cannabis Commission (OLCC) and other interested parties
From: Oregon Secretary of State LaVonne Griffin-Valade
Re: Audit review; appearance of threat to independence

Overview

Both before and after the release of this audit, the Oregon Audits Division became aware of information concerning the former Secretary of State's relationship with La Mota, a business regulated by the OLCC. The auditors appropriately identified this as a threat to independence under auditing standards. The threat to independence was also identified by an independent review of the audit conducted by Sjoberg Evashenk Consulting (Sjoberg) on behalf of the Oregon Department of Justice.

Several entities have reviewed the audit and found that it was conducted correctly under government auditing standards and its findings are sound. Nevertheless, the former Secretary's actions damaged the public perception of the work. In auditing, we call this a threat to independence in appearance. To mitigate this threat, I have undertaken my own review of the audit using the relevant Generally Accepted Government Auditing Standards (GAGAS). As the newly appointed Secretary of State, with 16 years of experience as a government auditor, including serving on the Association of Local Government Auditors' peer review committee, I am well qualified to conduct this review.

Auditors follow GAGAS to conduct their work and evaluate threats to independence. GAGAS require auditors to evaluate threats to their independence during an audit and after its release.

In this case, auditors followed GAGAS to evaluate information of which they were aware during the audit. The auditors' [statement of independence confirmation](#) shows continuous independence checks throughout the audit work, including a check on March 3, 2023 after auditors learned that the former Secretary had entered into a business relationship with a cannabis company. Auditors determined at that time that the Secretary's relationship with a cannabis business did not affect the report's findings, and they completed the report and released it.

After the report was released, auditors and the public received additional information about the former Secretary's relationship with La Mota, her handling of her audit plan, and the impact of that

information on the public's perception of the audit. When such threats are identified after a report's release, [GAGAS 3.34](#) instructs auditors to examine whether the threat would have altered the report had it been known before the report's release.

According to standards, if I now determine that the threat to independence altered the report's findings, auditors should remove the report and consider whether to reissue it with changes. If I do not determine that the report would have been different, auditors must maintain the report as issued.

Based on my review, detailed below, I find that the threat to independence did not affect the findings in the audit report. Therefore, I have instructed auditors to maintain the report as issued.

In my review, I also looked at the actions the Audits Division took to mitigate the loss of public trust in the report as information about the former Secretary emerged. I agree with the independent reviewers that auditors could have done more to mitigate that loss of trust. Consequently, I have directed the Division to make several process changes to clarify its independence and insulate it from the appearance of bias in the future.

Assessing the audit based on standards

In order to determine the impact of the threat to independence on the OLCC audit report, I have reviewed the report and work papers, interviewed the team that conducted the audit, and reviewed the reference materials that support the audit's core findings.

My review determined that the report would not have changed if the auditors were aware of the threat to independence when conducting their work. The audit report relies on hundreds of work papers, more than 30 stakeholder interviews, state and federal laws or memos, and data from the audited agency. It does not rely on any materials related to the former Secretary or La Mota.

The core findings in the report are supported by evidence that is not impacted by the threat to independence. Here are just a few examples of the evidence the report relies on:

- Finding: State cannabis laws are based on federal guidance that has since been repealed. Many aspects of the regulatory system are in place to prevent federal interference in Oregon's otherwise legal system, a concern that no longer carries the same significance, risk, or likelihood.
 - Evidence: Oregon's cannabis regulations [ORS Chapter 475C](#); [USDOJ Cole Memorandum 8.29.13](#); [USAOR Billy Williams Memorandum 5.18.18](#); [Statement from President Biden on Marijuana Reform – The White House 10.6.22](#)
- Finding: Oregon's cannabis industry is subject to some regulations the alcohol industry does not face, creating a business equity problem.
 - Evidence: [OAR Ch 845 Div 25, pg 50 R2](#); [OAR Ch 845 Div 25, pg 163 R1](#); [OAR Ch 845 Div 25, pg 52; R1](#); [OAR Ch 845 Div 25, pg 50 R2 pg 20 R1](#); [OAR Ch 845 Div 25, pg 11 R1](#)

- Finding: Some regulations on the cannabis industry, specifically security regulations, are not clearly based on a robust risk assessment or real-world effectiveness.
 - Evidence: [Email interview with Marijuana Policy Analyst at OLCC; For Nearly a Year, Teenagers Have Been Robbing Portland Dispensaries. Then Somebody Shot a Budtender, Willamette Week 3.3.21](#)
- Finding: Oregon has fallen behind most recreation-legal states that have social equity cannabis programs.
 - Evidence: [States social equity program comparison, research based on multiple sources compiled by the Oregon Audits Division](#)
- Finding: OLCC’s current cannabis licensing system does not require and is not capable of tracking demographic data entry for licenses and permittees.
 - Evidence: [Interview with OLCC Marijuana Licensing Technician](#)

In addition to these examples, every sentence of the audit is referenced to work papers that support the report and are not impacted by the threat to independence.

The former Secretary touched the audit on two occasions, first during a kickoff meeting and again during an end of scoping meeting on May 25, 2022. On both occasions, and in email traffic between the Secretary and the auditors, her sole contribution was to suggest an interview with one of the owners of La Mota, Rosa Cazares. As the second largest cannabis retailer in the state, La Mota would likely have been included in the initial interview list regardless of the former Secretary’s request, so it’s not surprising that this didn’t raise any red flags at the time.

Auditors did interview Ms. Cazares, but dismissed her interview as overly “personal,” noting that the interview subject focused primarily on complaints about her interactions with the OLCC.

In my experience as an auditor, interviews of this nature are common, and auditors rarely use them as evidence. [GAGAS 8.90 – 8.94](#) directs auditors to assess the objectivity of testimonial evidence. The auditors working on this report correctly identified the biased nature of the interview and dismissed it. Had that interview never occurred – a likely result of the auditors having been aware of the threat at the time – the audit report would still have arrived at the same conclusions.

Since nothing connected to the threat to independence was used in the audit, according to standards there is no reason to remove the report or consider whether to reissue it with changes.

Other independent reviews

Few audits receive the level of scrutiny this audit has. In addition to my review, the Oregon Audits Division conducted its own review following the former Secretary’s resignation, finding that the report was not impacted by the threat to independence and that the Audits Division maintained independence. Two independent entities have also reviewed the audit. OLCC, in its official response to the audit, agreed with each recommendation and did not dispute any of its findings. Sjoberg’s report

confirmed that the Audits Division conducted its work independently, followed GAGAS standards, and found “no evidence ... that former Secretary Fagan exerted undue influence” on the report.

It's worth noting that after reading pages and pages of media reports on the audit, I can't find one instance where a fact in the report's findings is convincingly questioned.

Mitigating harm to public trust caused by the former Secretary

Sjoberg's report identified actions auditors could have taken during and after the issuance of the report to address public perception of the audit. This is understandable given the difficult situation the former Secretary created, and I agree with the risk identified by Sjoberg. Based on their recommendations, I have taken several steps to improve the processes of the Oregon Audits Division.

Most importantly, I have intervened as an additional reviewer in this particular audit. One of the safeguards Sjoberg recommends based on standards is adding additional reviewers, which is done to ensure that the evidence is sufficient and the auditors followed standards. In my review I examined the Audits Division's efforts to verify its independence during the audit, interviewed the Division's management team, reviewed the responsible officials' (OLCC) comments on the audit, and conducted the evidentiary review outlined in the section above.

With 16 years of experience as a government auditor, including serving on the Association of Local Government Auditors' peer review committee, I am uniquely qualified to oversee the final stages of this report. My independent assessment should reassure the public that the contents of the report are trustworthy.

Sjoberg correctly identified actions auditors could have taken to address the threat to independence as it emerged. In the future, there is more the division can do to prevent a similar situation from occurring again. I have directed the Audits Division to initiate several process improvements that are responsive to the recommendations in the Sjoberg report.

1. The Division will revise its audit process to remove the Executive Office and Secretary from the two scoping meetings attended by former Secretaries. This change will clarify the Secretary's limited role in the audit process and strengthen the Division's independence.
2. The Division will strengthen its independence policy to ensure that threats and conflicts of interest are carefully reviewed and documented at multiple points during each audit engagement.
3. The Division will overhaul its audit plan process to document a standardized, risk-assessment based approach in determining which audit subjects are chosen.
4. The Division will contract with a third-party, independent consultant to develop further improvements to the audit plan risk assessment process.

Conclusion

The public interest is best served in this case by independent auditors providing evidence-supported findings and recommendations to state government. Neither my review nor any other has uncovered a reason to think this report is anything short of that standard.

For that reason, I have instructed the auditors to maintain the report as issued. I encourage the auditee and other state leaders to treat this report with the same high regard they do any other report from the Audits Division.

Sincerely,

A handwritten signature in blue ink that reads "LaVonne Griffin-Valade". The signature is written in a cursive style with a large initial 'L'.

LaVonne Griffin-Valade
Oregon Secretary of State