
INTRODUCTION

At the direction of the Executive Branch Audit Committee, we conducted an audit of the Department of Agriculture (Department). Our audit addressed the following four questions:

- ✓ What is the Department's role?
- ✓ What services must the Department provide?
- ✓ Is the State the proper level of government to provide these services?
- ✓ If State government is the appropriate level of government, is the Department carrying out its duties efficiently and effectively?

Our audit focused on the role of the Board of Agriculture and methods for improving the Department's accounting and grant processes. In addition, we examined options for managing Virginia Range stray horses and whether the Medical Marijuana program should continue to be administered by the Department.

Agency's Role and Public Purpose

The Department was established in 1915. Its mission is to benefit the health and welfare of Nevadans by encouraging and protecting agriculture and related industries.

The Board oversees the Department and establishes policies. The Department includes the following divisions:

- Administration – Provides management, oversight, planning, fiscal services, and human resources support for the Department.
- Animal Industry – Establishes protective health requirements for domestic and wild animals moving into and within the state, monitors health compliance, tests animals for diseases of economic and public significance, and conducts animal health surveys to provide information regarding domestic and wild animal production.
- Livestock Identification – Protects livestock owners from theft, loss, and unfair business practices. The Division records all livestock brands in the state. Division staff inspect brands, returns strays, investigate livestock

theft, and enforce all livestock laws including dealer licensing requirements.

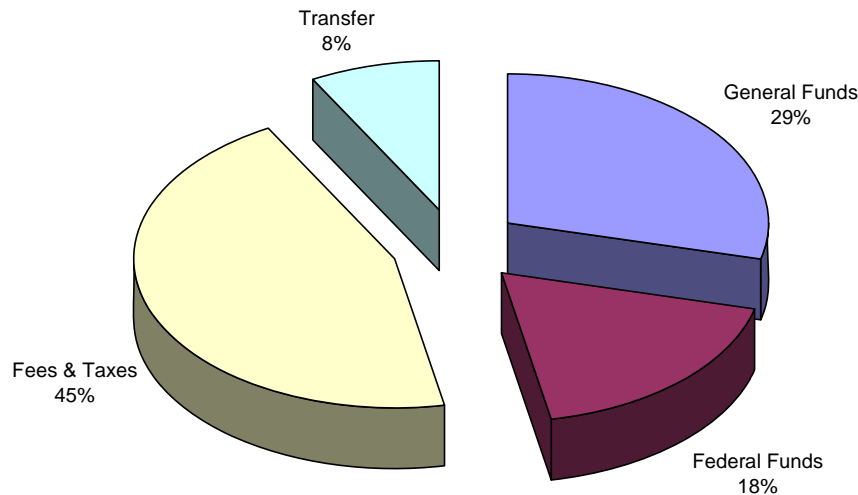
- Measurement Standards – Regulates and licenses commercial devices used for determining mass, volume, and length. The Bureau of Fuel Technology tests fuel against acceptable standards to ensure clean burning, high quality motor fuel.
- Plant Industry – Protects crops, livestock, and public health through the administration of weed, seed, fertilizer, pesticide, nursery, rangeland resources and entomology programs. In addition, the Division monitors groundwater for the presence of pesticides and provides organic certification.
- Resource Protection – Protects Nevada's agricultural, industrial, private, and natural resources, and safeguards public health and safety through the management and prevention of damage and disease caused or vectored by wildlife. The responsibility of this program is to help resolve conflicts between wildlife and people.

The State is the appropriate level to provide these services. The Department ensures a uniform method of controlling and monitoring threats involving plants, pests, and livestock within State boundaries. Statute designates the Department as the appropriate agency to administer grants and cooperative agreements with other agencies.

In fiscal year 2007, the Department had 104 positions and 21 budget accounts with revenues of approximately \$15 million. In addition, the Department administers numerous and diverse programs, identified in Appendix A. Revenue sources appear in Exhibit I.

Exhibit I

Department of Agriculture Revenue Sources



Objectives and Scope

Our audit focused on the following objectives:

- ✓ Should the Board's statutory authority be revised?
- ✓ Can the Department enhance its accounting grants, and reporting functions?
- ✓ Should the Department develop a plan for managing Virginia Range stray horses?
- ✓ Should the Medical Marijuana program continue to be administered by the Department?

We began the audit on May 17, 2007. In the course of our work, we interviewed Board members about industry and Departmental concerns. We also discussed processes inherent in each division with its management and staff. We reviewed program reports and budgets for fiscal years 2004 through 2007 and applicable statutes and regulations. Further, we surveyed or reviewed the statutes of other states in comparing board structures, powers, and duties. We surveyed other Nevada state agencies to determine alternate methods of tracking programs and grants. We concluded field work and testing on August 8, 2007.

We performed our audit in accordance with the *Standards for the Professional Practice of Internal Auditing*.

We express appreciation to the Department's director and staff for their cooperation and assistance throughout the audit.

Contributors to this report included:

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Department of Agriculture Response and Implementation Plan

We provided draft copies of this report to Department of Agriculture management for their review and comments. Their comments have been considered in the preparation of this report and are included in Appendix B. The Department accepted 11 of our 12 recommendations. The Department indicates it can not respond on behalf of the Agriculture Board to the first recommendation. Therefore, the Department will provide this report to the Board for consideration. Appendix C includes a timetable to implement our recommendations.

NRS 353A.090 specifies within six months after the Executive Branch Audit Committee releases the final audit report, the Chief of the Division of Internal Audits shall evaluate the steps the Department has taken to implement the recommendations and shall determine whether the steps are achieving the desired result. The Chief shall report the six month follow-up results to the Committee and the Department.

The following report contains our findings, conclusions, and recommendations.

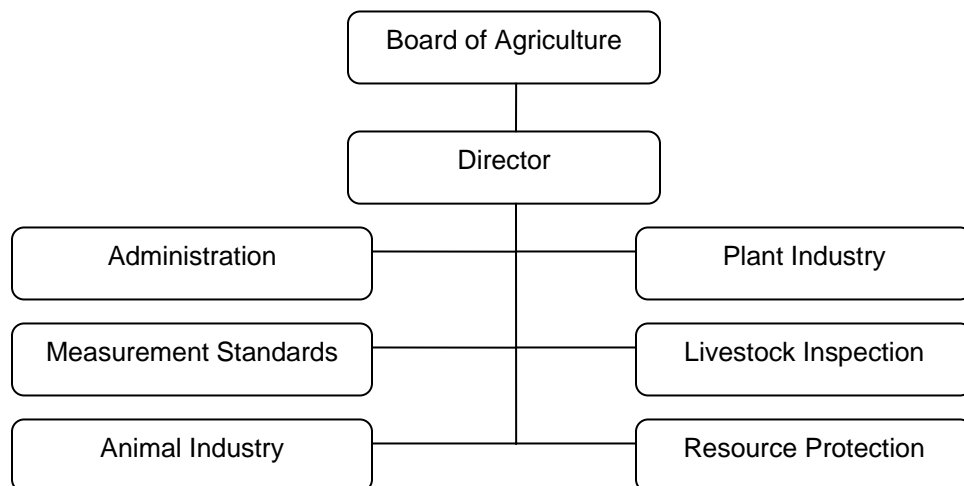
Should the Board of Agriculture's Statutory Authority Be Revised?

The Nevada Board of Agriculture should consider revising its statutory authority. Presently, the Board's authority differs from most other states.

The Department is comprised of six divisions, each with an administrator who reports to the director. The director reports to the Board. See Exhibit II.

Exhibit II

Department of Agriculture Organizational Chart



The Board was established in 1961 and has eleven members, each appointed by the Governor for a term of three years. The Board is part-time, consists of industry representatives, is part-time, meets quarterly, and oversees a full-time department.

The Board's oversight includes:

- Appointing the Director (with Governor's approval),
- Removing the Director,

- Approving removal of three of the six¹ division administrators,
- Establishing policy, and
- Adopting rules and regulations.

We reviewed all 50 states to determine the authority of their boards. Some states do not have boards. Other states have either advisory or controlling boards.

Advisory boards generally recommend adoption of rules, and appointment and removal of the director. Advisory boards processes range from informal to formal. In an informal process the director is not required to respond to the boards recommendations. Alternatively, in a formal process, the director is not required to adopt the board’s recommendations; however, the director must justify in writing reasons for not implementing the recommendations.

Controlling board’s authority ranges from minimal to full control. See Exhibit III.

Exhibit III

Controlling Boards Authority Matrix

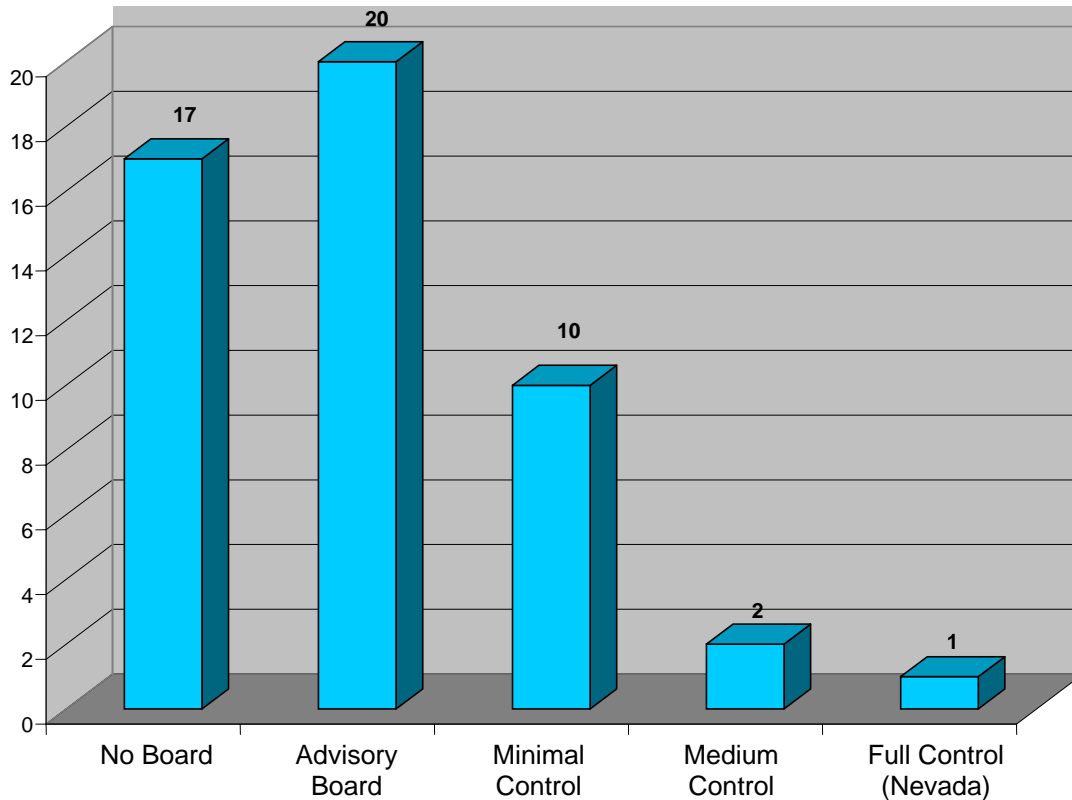
	Adopt Rules	Appoint Director	Remove Director	Remove Division Administrators
Minimal Control	X			
Medium Control	X	X	X	
Full Control	X	X	X	X

Nevada has the only state board that exercises full control over the Department. See Exhibit IV.

¹ Board approval is not required to remove administrators from the Measure Standards, Resource Protection, and Administration divisions.

Exhibit IV

Number of State Boards and Authority Levels²



Revising Nevada’s part-time Board’s authority could align its structure with other states. Consequently, the Executive Branch employees could have more direct control over the Department’s resources.

We contacted seven of the eleven Board members who expressed the following concerns regarding reducing the Board’s authority:

- Rulemaking – Industry interests might not be considered in developing Department policies and regulations.
- Appointing and Removing the Director – Candidates qualifications are best evaluated by industry representatives. Removal interrupts the focus of the Department.
- Checks and Balances – The Board provides checks and balances on departmental policy, direction, and activities. This ensures they align with agricultural industry needs and statewide consumer protection.

² The seven surrounding western states include one “Medium Control” (NM), four “Advisory” (AZ, CA, OR, UT), and two “No Board” (ID, WA).

Some states have shifted their board's authority from controlling to advisory as departments of agriculture have taken on more regulatory responsibilities. Nevada's Board consists of eleven members with different industry backgrounds, who often make Departmental decisions outside their specialty. Other states have addressed this issue by establishing special purpose boards that regulate specific agricultural interests, such as animal industry, plant industry, and administering agricultural loans.

Recommendation

1. Consider revising the Board's statutory authority.

Can the Department Enhance Its Accounting, Grants and Reporting Functions?

The Department can improve its accounting, grants, and reporting functions by enhancing grant management; monitoring and reporting revenues and expenditures; developing and maintaining cost allocations; reviewing coding; and updating policies and procedures. This will enhance accountability, reduce the number of accounting correcting entries, and ensures administrators have accurate and timely information with which to make decisions.

Each of the Department's six divisions has one or more budget accounts. Budget accounts may consist of multiple programs. Programs perform specific functions, such as seed inspection, Mormon cricket control, and organic certification.

The Department's accounting division consists of seven staff members who prepare transactions and report the financial status of programs to administrators³. The accounting division also monitors revenues received by the Department including State general funds, taxes, fees, and grants.

Grants provide one source of funding to the Department. Each grant identifies its purpose and the time frame funding is available (e.g., a few months or several years). Federal and state governments provide a majority of these funds.

The Department can improve its accounting, grants and reporting functions by:

- Enhancing grant management,
- Monitoring and reporting on revenues and expenditures,
- Revising and maintaining cost allocations,
- Reviewing coding, and
- Updating policies and procedures.

Enhancing Grant Management

The Department receives funding from 39 grants⁴. Grant funding is primarily received from the United States Department of Agriculture (USDA). To obtain grant funding, administrators complete and sign grant applications. These applications describe the purpose of the grant, the time frame funds are available, and the amount requested. For example, in 2006, the Department

³ Administrators can be managers of programs and/or divisions.

⁴ The term grants include grants and cooperative agreements.

applied for a grant to register livestock producers to help regulate and reduce burdens in interstate agricultural commerce. On the application, the Department identified it needed about \$100,000 for one year to complete the registration.

Grant applications request funding for the following categories:

- Direct Costs – Direct costs are costs specific to the purpose of the grant. For example, direct costs for grants include categories for salaries, travel, equipment, and contracts.
- Indirect Costs – Indirect costs, a grant category in itself, include costs incurred by more than one grant or program and are not directly related to the purpose of the grant. For example, indirect costs include supplies, services, and facility costs.

Funding for Indirect Costs

The Department can request funding for indirect costs by:

- Negotiating the Indirect Cost Rate – Prior to applying for grants, grantees negotiate an Indirect Cost Rate⁵ with the USDA. A negotiated rate establishes allowable indirect costs. To date, the Department has not negotiated an Indirect Cost Rate.

If the grant does not allow the use of a negotiated Indirect Cost Rate, the Department must:

- Establish a budget for indirect costs in the grant application – The Department must define all proposed indirect costs in its grant application and receive grantor's approval.

If the Department does not request indirect funding, grant funding cannot be used for these costs. Consequently, other programs have to subsidize these costs or direct costs will be improperly used to pay for indirect costs. On August 8, 2007, we sampled nine grants and noted seven did not seek reimbursements from the grantor for indirect costs, such as rent or utilities.

Additionally, the Department is responsible to ensure costs are spent in the proper category. Of the nine grants sampled, we noted the following percent of potential indirect costs charged to the program as direct costs. See Exhibit V.

⁵ An Indirect Cost Rate is a percent derived from the Department's costs. The rate is then used to compute allowable indirect costs for grants.

Exhibit V

Indirect Costs Charged as Direct Costs

	Rent & Utilities	Phones & Faxes	Computer Services	Postage
Sampled Grants	22%	33%	22%	33%

Grant Budgets

Once a grant is awarded, the Department cannot spend more than the grant budget without pre-approval. Additionally, for grants over \$100,000 the Department cannot exceed its grant categories by more than 10 percent of the total grant. When necessary, the Department must request approval to transfer funds among categories to avoid overspending.

The Department currently has 39 grants. According to accounting data on July 3, 2007 the Department overspent the total budget or exceeded its spending guidelines in about 15 percent of its grants. However, the Department represents by fiscal year closing, no grants were overspent.

The Department should limit spending within budget and category for primarily three reasons. First, per statute, administrators must ensure budgets are not overspent. Second, overspending grant budgets may result in the grantor not reimbursing the program for the excess expenses. As a result, other programs or the State would have to subsidize the difference. Third, charging indirect costs to direct cost categories reduces funds available to the program.

Recommendations

2. Negotiate Indirect Cost Rate with USDA.
3. Include indirect costs in grant applications, when appropriate.
4. Spend funds according to grant budgets.

Monitoring and Reporting on Revenues and Expenditures

The accounting division enters transactions into the State's database. To generate reports on the status of program budgets, accounting staff and administrators download the information from the database.

Revenues and Expenditures Tracking

The accounting division expects administrators to search the State's database to determine the status of their programs. However, discussions with administrators revealed they have neither the time nor the detailed knowledge to retrieve the needed information from the system. Additionally, the database does not provide reports that compare revenues to expenditures by program or information on how fast funds are being expended.

The accounting division can help administrators monitor their budgets by developing summary reports based on spreadsheets. Reports detailing revenues, expenditures, and rate of spending by budget account and program will enable administrators to better manage their programs.

The Department's policies and procedures require the accounting division to provide administrators weekly revenue and expenditure reports. We surveyed three State agencies⁶ and noted they used spreadsheets to monitor program revenues, expenditures, and rate of spending. Surveyed agencies' staff said this helps their administrators prevent overspending.

Grants Tracking

When a program receives grant funds, the accounting division issues a monthly report on its status, which includes:

- Revenues – funding over the time frame of the grant.
- Expenditures – costs over the time frame of the grant.
- Amount of Matching funds – State funds required to be invested in the program to obtain grant funds.

The Department should issue reports on grant status to the administrators according to policies and procedures. The report should include revenues and expenditure for the State fiscal year and identify specifically what is used as matching funds.

We surveyed three State agencies⁶ that administer grants. These agencies issue reports to administrators, which showed the available funds by State fiscal year and sources of matching funds. The agencies' staff states these reports help them monitor grants. It also gives them the ability to forecast future revenues and expenditures.

⁶ We surveyed the Departments of Public Safety, Wildlife and the Health Division.

Some grantors require State matching funds to be eligible for grants. Monitoring matching funds is important to ensure the State funding source is not used more than once. Department staff represents they have not tracked matching funds. Improper use of matching funds could jeopardize future grant awards.

Recommendations

5. Provide administrators a report on revenues, expenditures, and rate of spending according to policies and procedures.
6. Modify the monthly grant report process as follows:
 - a. Submit to administrators according to policies and procedures,
 - b. Identify revenues and expenditures by State fiscal year, and
 - c. Identify sources of matching funds.

Revising and Maintaining Cost Allocations

Programs sharing resources, such as facilities, should also share in their costs. These indirect costs should be allocated using a method that most closely reflects its usage. For example, rent and utilities should be allocated based on square footage; supplies and phones based on number of personnel; and accounting services based on the number of transactions processed.

We reviewed the accounting division's method for allocating indirect costs. These costs were only allocated to some budget accounts and programs. We also noted costs were not redistributed when programs ended. Properly allocating costs will ensure programs pay their share. This will also allow administrators to determine if programs are self-supporting.

Recommendation

7. Ensure indirect costs are allocated among all programs.

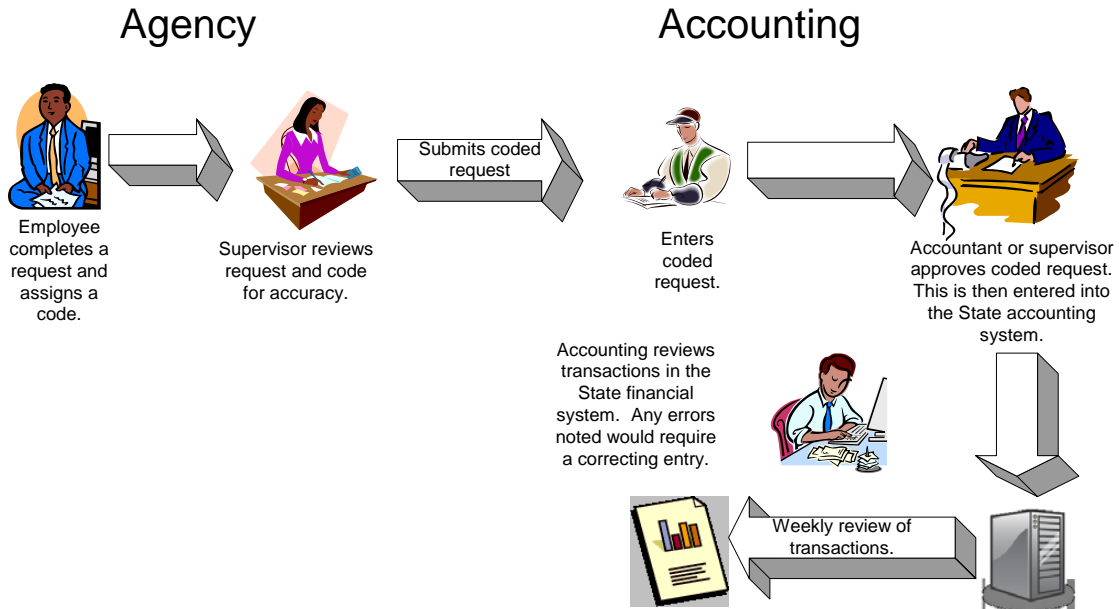
Reviewing Coding

Agency staff use codes to assign expenditures to programs. Correct coding ensures program costs are properly accounted for in the State accounting system.

Expenditures are coded and approved as described in Exhibit VI.

Exhibit VI

Department of Agriculture Coding Process



The accounting division reviews entries into the State accounting system weekly to verify the accuracy of transactions processed. If an error is discovered, a journal voucher is prepared. A journal voucher is an accounting document used to enter or correct accounting transactions.

The accounting division staff states they do not review each transaction's coding prior to approval into the State's accounting system. Not reviewing coding has caused a majority of the Department's journal vouchers. We sampled 50 journal vouchers and noted 60 percent were coding error corrections.

Reviewing coding prior to approval would reduce staff time spent on correcting accounting entries.

Recommendation

8. The accounting division should ensure coding is correct before approving transactions in the State accounting system.

Updating Policies and Procedures

Policies and procedures (policies) are written guidelines established by agencies to ensure efficient and effective operations. Pursuant to NRS 353A.020 and NRS 353A.025, agencies must maintain policies, update them annually, or as needed, and make them available to staff.

The Department's policies were last updated in 2003. Since then, the Department has made several changes to its processes. For example, it is now on automated time and budget tracking systems. In our discussions with the accounting division staff and administrators, they represented confusion as to who is responsible for monitoring budgets, coding transactions, and avoiding overspending. Additionally, discussions with administrators, accounting division staff, and program staff indicated the Department's policies have not been made available to them.

Updating and distributing policies will enhance effective communication and accountability within the organization.

Recommendation

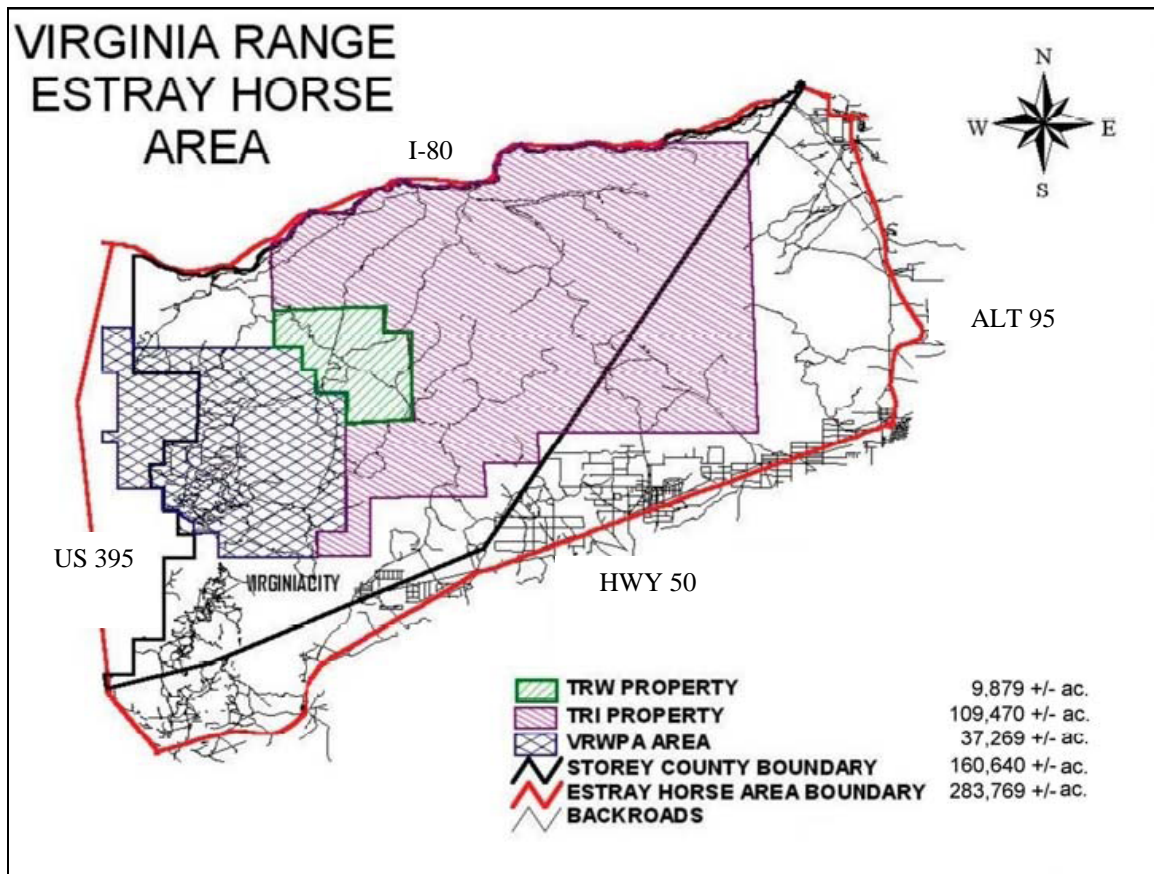
9. Update and distribute policies and procedures.

Should the Department Develop a Plan for Managing Virginia Range Estray Horses?

The Department should develop a plan for managing Virginia Range (Range) estray horses (estrays). Estrays run at large on private or public lands in Nevada. Wild horses are horses running at large on Bureau of Land Management (BLM) land. Per statute, the Department is responsible for estrays.

Most estrays live on the Range. The Range is surrounded by I-80 on the north; Hwy 395 on the west; Hwy 50 on the south; and Alternate Highway 95 on the east. The Range covers about 284,000 acres and is mostly private land with some federal land⁷. See Exhibit VII.

Exhibit VII



⁷ Originally, BLM was responsible for horses on the Range. The BLM removed horses from federal land and then declared the Range free of wild horses. This left Nevada responsible for managing the remaining horses.

The stray population has grown beyond what the Range can support. Since 1997, the stray population has grown from 413 horses to about 1,100 today. Department staff, which includes two veterinarians and a University of Nevada veterinarian, believes the Range's capacity is about 550 horses. The Department anticipates future housing developments and increased cattle grazing on the Range will further reduce the Range's capacity for strays.

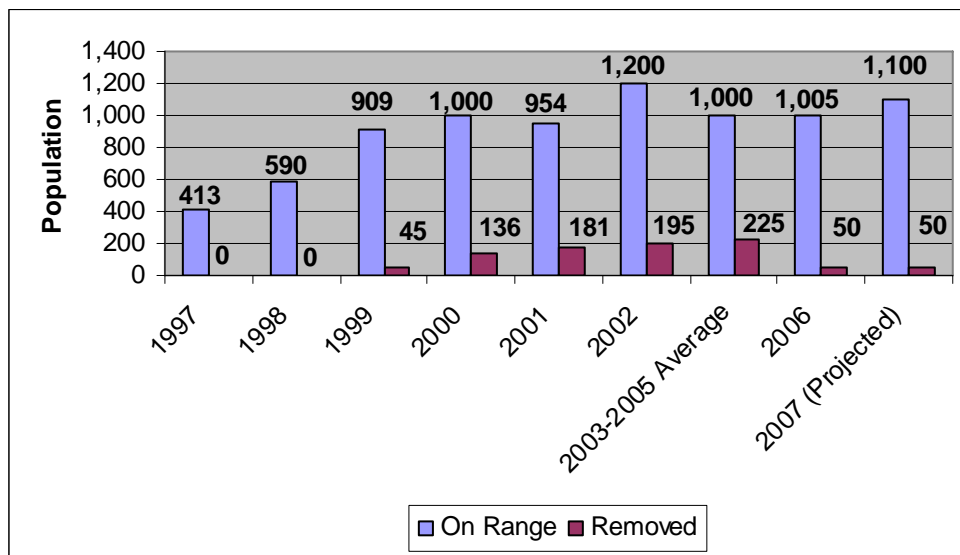
The Department removes strays from the Range to help manage its population by gathering and transporting the horses to the Department of Corrections (Corrections) in Carson City. Corrections then either:

- Trains horses for adoption – Inmates train up to 20 horses a year, which are auctioned off to the public. Corrections can only train a limited number of strays a year due to lack of demand. Strays tend to be small, making them less desirable for riding.
- Sells untrained horses – Corrections sells up to 45 untrained horses a year. Buyers include non-profit groups. Large sales of untrained horses have fallen off or have been curtailed because of alleged problems with horse abuse and slaughter.

The result of the Department's stray removal program is shown in Exhibit VIII.

Exhibit VIII

Estray Population and Removals



The current estray management methods have had limited impact. The Range's current estray population is twice its capacity. BLM studies and discussions with veterinarians revealed the estray population may grow at a rate of up to 20 percent a year. Additionally, veterinarians and Department staff represent continued drought or a severe winter could trigger a massive die off.

Quantifiable Solutions

The Department should consider alternative methods of bringing the estray population to the desired 550 horses. The following are three solutions and their estimated cost/benefits:

1. Natural selection,
2. Pasturing, and
3. Sterilization.

Natural Selection

Without intervention, predators could limit the estray population. BLM uses mountain lions to manage horse herd sizes in some remote areas of California and Montana.

The Range's mountain lions currently take some foals⁸. Over the next 10 years, predators could be left to manage the estray population at no monetary cost to the State. However, this method may cause an increased risk of human/predator interactions.

Allowing predators to control the estrays could result in about 4,500 horses on the Range over the next ten years. Due to the anticipated large number of estrays, a large die off could occur because of starvation. Department staff represent this is a socially unacceptable alternative, which may result in additional costs.

Pasturing

The Department could remove estrays and hold them on private lands. Nationwide, the BLM removes and holds thousands of wild horses each year and contracts with private land owners to maintain horses.

⁸ A foal is a young horse typically under one year of age.

Over the next 10 years, supporting estrays on private land would cost the State about \$3.9 million to maintain a Range capacity of 550 horses. This includes cost for helicopters to gather the horses and the expense of their care and feeding. The horses would benefit from receiving care after being removed from the wild.

Sterilization

The Department could sterilize estrays. A helicopter could gather the horses into temporary corrals on the Range. Veterinarians would administer drugs to sterilize mares⁹ and release them. These sterilization drugs are effective for up to four years. After four years, the Department would administer a second dose of the drug, sterilizing the mares for life.

Sterilizing horses over the next 10 years would cost anywhere from \$260,000 to \$1.03 million¹⁰ to maintain a Range capacity of 550¹¹. The Department could also reduce this cost by pursuing federal funding. In 2005, the Department received federal funding to sterilize 100 mares on the Range. According to a University of Nevada veterinarian, the Department could pursue federal funding for another sterilization program for experimental purposes.

Exhibit IX shows the management method, resulting population and related costs:

Exhibit IX

Projected Populations and Costs

Management Method	Estimated 2017 Population	Estimated 10-Year Cost
Natural Selection	4,500	\$0
Pasturing	550	\$3.9 million
Sterilization	550	\$260,000 to \$1.03 million

⁹ A mare is a female horse.

¹⁰ Based on information from the BLM, the Department, Corrections, and the University of Nevada veterinarian, we estimate costs could be as low as \$260,000. The acting State Veterinarian is formalizing a plan indicating costs could be as high as \$1.03 million. The primary difference between these estimates is the costs associated with rounding up the horses.

¹¹ In the first two years, 90 percent of the Range's mares would be gathered and inoculated. Succeeding years would require a small number of mares to be sterilized to keep the Virginia Range estrays at 550 horses.

Non-Quantifiable Solutions

In addition to the quantifiable solutions, the Department can consider two alternative methods to control the estray population. However, the cost/benefit of these methods could not be determined as opinions differ on the success of these options.

1. Guaranteeing an auction price, and
2. Paying to adopt.

Guaranteeing an Auction Price

The Department could guarantee a set amount be paid to trainers for each estray auctioned. For example, the BLM guarantees \$850 for each horse Corrections trains and auctions. Often the estray is auctioned for less than the BLM's guarantee. Providing a guarantee assures trainers receive more for the horse than training costs, thereby encouraging trainers to accept horses.

Paying to Adopt

The Department could pay \$168¹² for individuals to adopt an untrained estray. According to the Department, BLM pays for the adoption of horses after three unsuccessful attempts at auctions, and may also pay for transporting horses to new homes¹³.

An estimated cost/benefit of these two solutions could not be quantified. Opinions differ on the potential for success. Corrections states demand for trained or untrained estrays is currently being met. Therefore, it believes these methods would not increase the number of horses adopted. The Department represents these methods are not viable. Alternatively, wild horse groups and private trainers indicate these methods would increase the number of horses to be adopted, but were unable to provide any estimates.

¹² Per BLM records.

¹³ In 2005, the BLM stopped selling wild horses for a month because of problems with horses going to slaughter. Currently, BLM policies do not allow horses to be sold for slaughter.

Management Plan

It is in the State's best interest to develop a plan to manage the stray population. The Department represents if the stray population is unmanaged, a large die off is probable.

The Department should consider all solutions described above. One, or a combination of these solutions, could be selected when considering a plan to manage estrays.

Recommendations

10. Develop a plan for managing estrays.
11. Seek federal funding, when available.

Should the Medical Marijuana Program Continue to be Administered by the Department?

The Department should consider transferring the Medical Marijuana Program (program) to the Department of Health and Human Services' Health Division. This would allow the program to be in a division administering health related programs.

In 2000, Nevada voters approved an amendment to the *Nevada Constitution* allowing the legal use of medical marijuana. The program became effective in 2001, and was placed in the Department. Individuals who suffer from diseases such as glaucoma, HIV/AIDS¹⁴, and cancer can use marijuana to relieve the symptoms. About 800 Nevadans currently participate in this program.

To participate, an individual must both obtain documentation from a licensed physician and receive approval from the program. The program reviews the physician's report to determine eligibility. Once approved, the participant is given an identification card, which allows the participant to grow up to seven plants and possess up to one ounce of marijuana for personal use. Participants pay \$200 for the first year and \$150 for subsequent annual applications.

We surveyed three states with a medical marijuana program: Colorado, Hawaii, and Washington. These states have medical marijuana programs within their departments of health and human services. The states' staff represent their medical marijuana program is appropriately placed because the program deals with health related issues.

The Department could coordinate with the Department of Health and Human Services' Health Division to transfer the program. The Health Division has programs handling medical issues such as HIV/AIDS prevention and care and cancer control programs, which address quality of life issues. Additionally, the Health Division determines which diseases qualify for use of medical marijuana in Nevada.

Recommendation

12. Consider transferring the Medical Marijuana Program to the Health Division.

¹⁴ HIV/AIDS - Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome.

Appendix A

Nevada Department of Agriculture Programs and Activities

Administration

Agriculture license plate – Agricultural Promotion Fund
Nevada Rangeland Resources Commission (also Plant Industry)
Agricultural mediation USDA (also Plant Industry)
Fiscal and Budget Services
Grant Services
Personnel Services
Payroll Services
Accounting Services
Planning Services
Support to the Board of Agriculture

Animal Industry

Johne's Disease survey (USDA)
Foreign Animal Diseases survey (USDA)
Scrapie Disease survey (USDA)
Chronic Wasting Disease survey (USDA)
National Animal Identification System (USDA)
 Animal ID
 Premises ID
West Nile Disease survey (NDH)
Virginia Range Estray Horse Program
Dog bite prevention
Pasturellosis study – domestic & bighorn sheep
Animal Disease Laboratory services
 Abortion
 Microbiology
 Parasitology
 Pathology
 Serology
 Toxicology
 Virology
Plague survey
Rabies survey

Livestock Identification

Livestock and Farm Product Buyer Licensing
Brand Registration/Recording
Brand Inspection (including animal health requirements)

Livestock Identification (Cont'd)

Livestock theft investigation
Estray/Feral livestock investigation and disposition
Livestock head tax assessment and collection
Agricultural Enforcement plant quarantine and pest inspection.
Horse transportation permits

Measurement Standards

Weights and Measures
 Device licensing
 Public weighmaster licensing
 Device Repair Agency registration
 Device inspection
 Price verification
 Package inspection
 Consumer complaints
 Fuel sampling
 Enforcement of statute
Petroleum Technology
 Fuel quality testing

Plant Industry

Noxious weed abatement
Cooperative weed management areas
 NDOA grants
 U.S. Forest Service sub-grants
 Assistance and coordination
Weed free forage certification
Noxious weed control state & federal highway rights of way
Noxious weed education/ instruction
 Nevada Weed Management Association Annual Conference – and
committees
 Weed Warrior, Master Gardener, Nursery Certification (Extension
programs)
 Noxious weed list serve
Biological control releases
Salt Cedar biological control
Insect identification, plant disease & nematode identification, vertebrate pest
management
Strychnine bait –registration, formulation and distribution
Produce condition inspection
Egg grading and inspection (USDA)
Egg surveillance inspection (USDA)
Poultry Product Inspection to schools (USDA)
Greenline Foods compliance inspection (NV quarantine)

Plant Industry (Cont'd)

Wal-Mart Inc regional distribution center produce inspection (enables shipment to CA)

Produce inspection - contractor (enables shipment to CA prison facility Susanville)

Pest Control licensing, investigation, inspection & continuing education

Section 8 review (conflict resolution between Forest Service/BLM and permitted)

Seed certification

White Rot Quarantine

Onion and Garlic Advisory Board

Alfalfa Seed Advisory Board

Organic Advisory Council

Medical Marijuana licensing

European Pine Shoot Moth survey

West Nile Virus survey mosquito trapping (Animal Industry)

Nursery product dealer licensing and inspection

Shipping point inspection (USDA, grading, onions & potatoes)

Phytosanitary certification (USDA, plant and plant products for export)

Interruptible Power rate verification (Sierra Pacific customers)

Free sale certification

Producer certification

Organic certification

Specialty crop block grants (USDA)

Federal pesticide regulation (EPA)

- Core enforcement

- Worker protection

- Groundwater protection

- Pesticide applicator certification (restricted use products)

Pesticide disposal

Integrated pest management –Clark County Schools

Smuggling Interdiction Trade Compliance - market surveillance (USDA)

Pesticide registration (including special local need and experimental use)

Antifreeze registration

Fertilizer registration

Restricted use pesticide dealer licensing

Restricted fertilizer dealer licensing

Antifreeze registration

Livestock feed labeling

Apiary inspection – request

Sudden Oak death trace foreword inspection (USDA federal quarantine)

Sudden Oak death survey (US Forest Service).

Potato Cyst Nematode national survey

Mormon cricket and Rangeland grasshopper survey and control

Khapra beetle survey

Light brown apple moth (LBAM) survey

LBAM trace foreword inspection (USDA quarantine)

Plant Industry (Cont'd)

Gypsy moth survey
Imported fire ant survey
Exotic Forest Pest surveys
 Siberian silk moth
 Sirex noctilio
 Metallic beetle
European corn borer survey

Resource Protection

Public protection (protection of public and property at wildlife interface)
Livestock protection
Endangered species protection (Clark County - desert tortoise & Palmer's chipmunk)

Appendix B

Response and Implementation Plan

JIM GIBBONS
Governor

STATE OF NEVADA



RECEIVED
SEP 11 2007

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September 11, 2007

William Chisel, CPA, Chief
Department of Administration, Division of Internal Audits
3427 Goni Road, Suite 103
Carson City, NV 89706

RE: Response to Preliminary Audit Report

Dear Mr. Chisel,

Thank you for the time and effort spent by your audit team over the last four months getting to know the operations of Department of Agriculture. While not a large agency, the Department is charged with regulatory authority over a wide variety of functions and numerous programs. This diversity in the Department provides opportunities to serve our constituents and also administrative challenges for administrators and program managers.

The Department's response to the 12 recommendations is as follows:

1. Consider revising the Board's statutory authority.

Response: The Department does not have the authority to respond to this recommendation. Pursuant to your letter dated August 27th, the contents of the preliminary report are considered confidential until the final report is submitted to the Executive Branch Audit Committee. Once the final report becomes available, it will be provided to each of the eleven board members, for their review and consideration.

Implementation Schedule: This timeline will be entirely dependent upon the Board of Agriculture. As such, the Department can not provide an implementation schedule.

2. Initiate the process for establishing a negotiated Indirect Cost Rate with the USDA.

Response: The Department accepts this recommendation, and will begin dialogue with the USDA.

Lawrence Waugh, Chair: Petroleum
Alan Perazzo, Vice-Chair: Dairy
David Cassinelli: Livestock
Dan Hetrick: Row Crops

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(NSPO Rev. 7-07)

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While pursuing an agreement with the USDA should provide a rate more appropriate to the cost structure in the Department, it will also increase the work load of fiscal staff, as the Department previously used the percentage established by the Department of Health and Human Services. Additionally, when a negotiated indirect cost rate is established, there is no guarantee that grantors will recognize the rate.

Implementation Schedule: The Department anticipates initiating the process prior to March 31, 2008. However, implementation is dependent upon the results of the negotiations between the Department and the USDA.

3. Continue to include indirect costs in grant and agreement applications, when appropriate.

Response: The Department accepts this recommendation; however, additional discussion is needed to provide context for the recipients of the audit. While many of the grants and agreements that NDOA has accepted do allow for an indirect cost component, many do not. Even within the same Federal Department and Section, there are different treatments for agreements. For instance, USDA/APHIS (Animal and Plant Health Inspection Service) has two subgroups with whom we sign cooperative agreements. Plant Protection and Quarantine (PPQ) and Veterinary Services (VS) both issue many agreements to NDOA, some with an indirect cost component authorized, and some without an indirect cost component. This lack of consistency, even within the same Federal Department (NDOA's Cognizant Agency, USDA), makes negotiating an Indirect Cost Rate complicated. However, NDOA will further investigate the requirements, procedures and parties involved.

Many times, a cooperative agreement is offered to NDOA with the program components and budget pre-determined by the grantor. In these cases, there is little room for negotiating an indirect cost component if it has not already been included. If the Nevada Department of Agriculture and State citizens are to benefit from the offered program, we need to accept the agreement as offered.

The Audit Report's suggestion that "If the grant does not allow the use of a negotiated Indirect Cost Rate, the Department must: Establish a budget for indirect costs in the grant application – The Department must define all proposed indirect costs in its grant application and receive grantor's approval." fails to take in to account that some agreements simply do not, and will not, allow an indirect cost component. The reasoning included in the suggestion would seem to be fallacious.

The Audit Report language also fails to mention that the Department of Agriculture does often include an indirect rate in its agreement applications. The language in its present form could easily mislead the reader into believing that the Department does not include an indirect rate at all. We use the same rate negotiated by the Nevada Department of Health and Human Services (NDHHS), currently 16% calculated from the personnel portion (payroll and fringe) of the agreement budget. Most often, especially when there are personnel costs budgeted in the agreement, the grantor accepts the NDHHS rate without question, thereby establishing a de facto acceptance of the indirect rate.

Many people consider this indirect rate as reasonable. By contrast, some other states have a substantially higher negotiated indirect rate. (i.e., Montana Department of Agriculture has a 35.28% negotiated Indirect Cost Rate based on budgeted personnel

services costs. The California Department of Food and Agriculture combines their SWCAP and Departmental indirect rates, for a total of 20.77%. Arizona's Indirect Rate is 23.48%, Oregon's Rate is 22.53%, and Utah's rate is 18.44%). Nevada's use of the NDHHS rate of 16% leaves more funds in the operational portion of the agreement.

It should be noted that Federal program agreements come with a finite budget. The Indirect Rate siphons funds directly from that finite budget, leaving fewer funds for the operational portion of the budget. When the Indirect Rate is higher, fewer funds are available to carry out the purpose of the agreement.

Implementation Schedule: The recommendation is a continuing recommendation, and is dependent upon each grant application that is submitted. The Department applies for federal funds through out the year, and the estimated implementation date is June 30, 2008.

4. Spend funds according to grant budgets.

Response: The Department accepts this recommendation, and when possible, will work towards standardizing requests for federal funding.

Implementation Schedule: The estimated implementation date is March 31, 2008.

5. Provide administrators a report on revenues, expenditures, and rate of spending according to policies and procedures.

Response: The Department accepts this recommendation, and will revise the current report format to include rate of spending.

Implementation Schedule: The estimated implementation date for the revised report format is February 1, 2008. Revised policies and procedures are estimated to be completed by February 1, 2008.

6. Modify the monthly grant report process as follows:

- a. Submit to administrators according to policies and procedures,
- b. Identify revenues and expenditures by State fiscal year, and
- c. Identify sources of matching funds.

Response: The Department accepts this recommendation concerning modifying the monthly grant report process, however, additional discussion concerning overall grant management is needed to provide context for the recipients of the audit. Many of these issues are more complicated than the language of the Audit Report would indicate.

NDOA does not concur with the language and definitions, specifically the examples, included for Direct Costs and Indirect Costs. The definitions are grossly over-simplified and fail to take into account that many of the cost components listed as examples exist within both the direct and indirect cost categories, depending on the specific agreement.

For instance, in many of our grants and cooperative agreements, (e.g., EPA Pesticide Enforcement, EPA Pesticide Certification) the amount of facility space and related utility costs are included as direct cost components in the accepted agreement budget, and are based on the square footage occupied by those programs. Also, the cost of program-specific supplies and services are often budgeted as direct cost components (e.g., the previously identified EPA agreements, USDA Pest Detection CAPS programs – Exotic Forest Pest Survey, Silver Y Moth Survey, Biological Weed Control, Gypsy Moth Survey, Imported Fire Ant Survey) and as such should not be charged as indirect costs. To include such costs as indirect, as defined by the Audit Report as Indirect Costs, could result in double-charging the Federal program, and would violate Federal statutes (2 CFR 225, Appendix E (formerly OMB Circular A-87)).

The Federal codes recognize that often certain costs are charged as direct costs, and are careful to word their language appropriately. Appendix E of 2 CFR 225, Section A.1. states "Indirect costs are those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned directly to Federal awards and other activities as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives." (Direct costs are determined first). The section continues with a restrictive stipulation "...A cost may not be allocated to a Federal award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to a Federal award as a direct cost." (i.e., the EPA agreements identified above). This restriction requires thorough research and careful consideration of which costs may be direct and which may be indirect, and consistent application of those standards across all agreements.

Considering that NDOA has many grants and agreements from several different Federal agencies and receives Federal funds from other non-Federal agencies, that each agreement budget is determined for the specific purpose of the agreement, and that there is little standardization among the various agreement budgets, NDOA feels that the examples listed in the Direct Costs and Indirect Costs paragraphs should be revised to show the true complexity of the situation, or stricken from the audit language.

Implementation Schedule: The estimated implementation date for draft policies and procedures related to item 6a is December 31, 2007. The estimated implementation date for items 6b and 6c is March 31, 2008. Revised policies and procedures are estimated to be completed by December 31, 2007.

7. Ensure indirect costs are allocated among all applicable programs.

Response: As mentioned previously in items 2, 3, and 6 direct and indirect costs are not as easily determined and applied as might be described in the Audit Report. Application of indirect costs to functions or programs not previously subject to these expenses may require rate increases, which may require revision to Nevada Revised Statutes, Nevada Administrative Code or both statute and regulation. Additionally, the methodology of applying indirect costs to programs will need to be coordinated with both Budget Division and the Fiscal Division of the Legislative Counsel Bureau, as indirect costs recovered from grant agreements are used to fund the Administrative Account, Budget 4554. Increasing the rate of recovery of indirect costs from all other programs may have the unintended effect of reducing the amount of General Fund

received by the Administrative account. While the Department accepts this recommendation, it will have a wide effect across the department, and will not be simple to implement.

Implementation Schedule: Due to the impact to the Department's budget, implementation will be dependent upon the 2007 – 2009 biennial budget process. The estimated implementation date is December 31, 2008.

8. The accounting division should ensure coding is correct before approving transactions in the State accounting system.

Response: The Department accepts this recommendation, and will revise the current method of reviewing transactions prior to approval.

Implementation Schedule: The estimated implementation date is December 31, 2007.

9. Update and distribute policies and procedures.

Response: The Department accepts this recommendation.

Implementation Schedule: The estimated implementation date is March 31, 2008.

10. Develop a plan for managing estrays.

Response: Management of horses on the Virginia Range is a function of funding, and with the current funding, the Department is limited to addressing animals that become an immediate concern to human safety. During the last budget cycle, a plan was submitted; however, it was not funded. The Department is in the process of revising that plan, and will meet with the Governor's staff to discuss options. The Department accepts this recommendation.

Implementation Schedule: Due to funding being a major component, this timeline is dependent upon the results of the budget process. While the plan will need to be part of the 2009 – 2011 budget request, which is anticipated to be due by September 1, 2008, final funding of the plan will be dependent upon the outcome of the 2009 Legislative Session. Intervention to preserve the range and manage the strays to maintain a healthy herd may become necessary sooner than this but is, again, dependent upon funding availability.

11. Seek federal funding, when available.

Response: While the Department accepts this recommendation, federal or other funding for this program has not been offered on a regular, consistent basis. As noted in the response to recommendation 10, availability of funding will have a major impact upon this program.

Implementation Schedule: This timeline is dependent upon federal or other funding being available, thus; there is no specific implementation date.

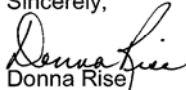
12. Consider transferring the Medical Marijuana Program to the Health Division.

Response: Prior to the audit, the Department met with the Department of Health and Human Services (DHHS) concerning the potential transfer of the Medical Marijuana Program. Agriculture is currently exploring options to contract with DHHS to administer the program during the 2007-2009 biennium. The Department accepts this recommendation.

Implementation Schedule: This timeline is dependent upon DHHS, the Governor's office and the Legislature, as transferring the program will require statutory changes. Considering statutory changes will require a bill draft request, and will also have budgetary impact, the estimated implementation date is September 1, 2008.

The Department appreciates the opportunity to respond to the recommendations, and will move forward with the implementation schedule. Again, thank you for time spent by your staff talking to board members and a wide cross section of staff in the Department, and the research to produce this audit report.

Sincerely,


Donna Rise
Director

Appendix C

Timetable for Implementing Audit Recommendations

In consultation with the Nevada Department of Agriculture, the Division of Internal Audits categorized the two recommendations contained within this report into two separate implementation time frames (i.e., *Category 1* – less than six months; *Category 2* – more than six months). The Nevada Department of Agriculture should begin taking steps to implement all recommendations as soon as possible. The Nevada Department of Agriculture's target completion dates are incorporated from Appendix B.

Category 1: Recommendations with an anticipated implementation period of less than six months.

<u>Recommendations</u>	<u>Time Frame</u>
4. Spend funds according to grant budgets. (page 11)	Mar 2008
5. Provide administrators a report on revenues, expenditures, and rate of spending according to policies and procedures. (page 13)	Feb 2008
6. Modify the monthly grant report process as follows: a. Submit to administrators according to policies and procedures, (page 13)	Dec 2007
b. Identify revenues and expenditures by State fiscal year, and (page 13)	Mar 2008
c. Identify sources of matching funds. (page 13)	Mar 2008
8. The accounting division should ensure coding is correct before approving transactions in the State accounting system. (page 14)	Dec 2007
9. Update and distribute policies and procedures. (page 15)	Mar 2008

Category 2: Recommendations with an anticipated implementation period of less than six months.

<u>Recommendations</u>	<u>Time Frame</u>
1. Consider revising the Board's statutory authority. (page 8)	Not Applicable ¹⁵
2. Negotiate Indirect Cost Rate with USDA. (page 11)	Sep 2008
3. Include indirect costs in grant applications, when appropriate (page 11)	Jun 2008
7. Ensure indirect costs are allocated among all programs. (page 13)	Dec 2008
10. Develop a plan for managing estrays. (page 21)	June 2009
11. Seek funding when available. (page 21)	Sep 2008
12. Considering transferring the Medical Marijuana Program to the Health Division. (page 22)	Sep 2008

The Division of Internal Audits shall evaluate the action taken by the Nevada Department of Agriculture concerning report recommendations within six months from the issuance of this report. The Division of Internal Audits must report the results of its evaluation to the Committee and the Nevada Department of Agriculture.

¹⁵The Department indicates it can not respond on behalf of the Board. Therefore, the Department will provide the recommendation to the Board for consideration.