



LIMITED-SCOPE PERFORMANCE AUDIT REPORT

Department of Agriculture: Evaluating the Division of Weights and Measures' Price Verification Process

AUDIT ABSTRACT

The Department of Agriculture's Weights and Measures Program helps ensure the accuracy of commercial measuring devices and price systems. Among other things, program staff inspect point-of-sale systems (e.g., electronic scanners in grocery stores or retail businesses) for price accuracy across the state. We found the program's price verification process did not appear to provide sufficient coverage of those systems. That is because state law includes few requirements for routine price verification inspections and the program considered them a low priority. The program inspected point-of-sale systems at 365 business in fiscal year 2018, which is likely only a fraction of all point-of-sale systems in the state. Moreover, more than half (59%) of the businesses inspected in fiscal year 2018 failed a price verification inspection.

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
March 2019**

From the Legislative Post Auditor:

This limited-scope audit was authorized by the Legislative Post Audit Committee at its June 20, 2018 meeting. It addresses the following question: Does the Weights and Measures' price verification inspection process appear to provide sufficient coverage of point-of-sale systems across the state?

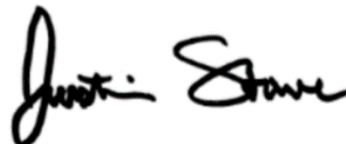
To answer this question, we interviewed officials with the Department of Agriculture's Weights and Measures Program, reviewed state law, administrative regulations, and program policy, and reviewed fiscal year 2018 program inspection data.

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 objectives. Overall, we believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit standards require that we report on any work we did related to internal controls. We evaluated the program's internal controls to ensure adequate coverage of point-of-sale systems across the state. We found the program lacked internal controls in this area.

This audit was requested by Senator Carolyn McGinn and conducted by Matt Etzel. Kristen Rottinghaus was the audit manager. If you need any additional information about the audit's findings, please contact Matt at (785) 296-3792.

Sincerely,

A handwritten signature in black ink that reads "Justin Stowe". The signature is written in a cursive, flowing style.

Justin Stowe
Legislative Post Auditor

Does the Weights and Measures' Price Verification Inspection Process Appear to Provide Sufficient Coverage of Point-of-Sale Systems Across the State?

Background Information

The Department of Agriculture's Weights and Measures Program is responsible for ensuring the accuracy of commercial weighing and measuring devices and price systems across the state. State law requires the Weights and Measures Program (the program) to inspect the accuracy of weights, scales, and price systems used to determine the value of commercial goods across the state. These can include:

- petroleum measuring systems like gas pumps
- commercial weighing devices like grocery, truck, and grain scales
- point-of-sale systems like cash registers and electronic scanners that determine the price consumers pay

The program has two divisions. One division is solely responsible for overseeing petroleum distribution in the state. The other division is responsible for overseeing the accuracy of all other scales and price systems in the state. Although historically the program was responsible for overseeing weighing and measuring devices, a 1994 amendment to state law also made the program responsible for inspecting point-of-sale price systems.

Program staff perform price verification inspections to ensure the accuracy of point-of-sale systems in the state. Although the program has multiple responsibilities, its oversight of point-of-sale systems was the primary focus of this audit. Several businesses in the state, including grocery and retail stores, rely on point-of-sale systems to determine the price consumers pay for purchased items. These systems typically use a scanner or other device to retrieve price information from a central database. It is critical these systems are accurate to prevent consumers from paying more or less than the advertised price for items. State law requires program staff to test and inspect these systems to ensure their accuracy. During an inspection, inspectors scan a sample of goods (50 items at small stores, 100 items at large stores), and compare advertised prices to prices retrieved from the point-of-sale system. According to program policy, businesses fail an inspection if more than 2% of the prices they checked did not match the advertised price. The program has the authority to penalize businesses that fail inspections, including assessing a civil fine against those businesses. However, we did not evaluate program penalties as part of this audit.

The program employed six full time staff to oversee and perform scale, price verification, and other inspections in January 2019. Those six staff include five inspectors and one supervisor who oversee and perform the inspections. Program officials told us they had one additional inspector position that was vacant that needed to be filled. In addition to inspecting scales and point-of-sale systems, these inspectors also review the weight of packaged goods and complete other program responsibilities as needed. The division responsible for petroleum inspections has its own staff, which were not included as part of this audit. Total program expenditures in fiscal year 2018 were about \$1.6 million. These expenditures included both divisions (scales and petroleum) because their expenditures could not readily be separated.

Finding #1: The Program's Price Verification Process Did Not Appear to Provide Sufficient Coverage of Point-of-Sale Systems in Kansas

State law includes few requirements related to inspecting point-of-sale systems. State law requires the program to inspect point-of-sale systems but does not specify how often or how many of these systems should be inspected. It also does not require Kansas businesses to register point-of-sale systems with the state.

The program considered routine price verification inspections a low priority and did not have a process to determine if inspections provided sufficient coverage of point-of-sale systems in the state. Program officials told us oversight of scale inspections was their primary responsibility because state law does not make price verification inspections a priority. According to program policy, routine price verification inspections are inspectors' lowest priority, and are to be completed only as they have time. However, follow-up and complaint inspections (including price verification) were a higher priority for the program. The program also did not maintain a list of all point-of-sale systems in the state. To determine which businesses to routinely inspect, program staff selected businesses they previously inspected (at least a year prior) or new businesses they discovered on an ad hoc basis while in the field. Without the total number of point-of-sale systems in Kansas, neither us nor program officials could determine what adequate coverage would be or whether the program achieved it.

The program conducted price verification inspections at 365 businesses in fiscal year 2018, which is likely only a fraction of all point-of-sale systems in the state. Point-of-sale systems are a very common part of retail and commercial businesses across the state. Grocery stores, clothing stores, and home supply stores are just a few examples of businesses that likely rely on a point-of-sale system to determine the price consumers should pay for purchased items. Although the total number of point-of-sale systems in the state is unknown, there are likely several thousand such systems in the state. For example, a 2016 survey by the U.S. Census Bureau showed there were around 10,000 retail stores across Kansas. Assuming all these stores used a point-of-sale system, the program's inspections may have covered approximately 4% of point-of-sale systems. However, we did not verify the U.S. Census Bureau's data and it is possible more or fewer stores use point-of-sale systems than the number of stores captured in their data.

More than half (59%) of the businesses inspected in fiscal year 2018 failed a price verification inspection. This suggests that additional coverage of point-of-sale systems may be warranted. We reviewed the program's fiscal year 2018 inspection data to determine how many businesses failed a price verification inspection. Of the 365 businesses inspected that year, 217 (59%) failed at least one inspection. About 80% of the business that failed had 10 or fewer items that were inaccurately priced out of the 50 or 100 items the program reviewed (the program did not track the sample size reviewed).

According to program officials, price verification inspections only accounted for a quarter of all 2,135 facility inspections completed by program inspectors in fiscal year 2018 (petroleum inspections were not included in these numbers). The majority (72%) of program inspections were scale inspections, in which program inspectors reviewed the work of licensed technicians for accuracy. Program officials acknowledged the need for additional price verification

inspections, especially given the high number of failed inspections in fiscal year 2018. However, officials told us increasing price verification coverage would reduce their oversight of scale inspections without additional resources.

Recommendations

None

Potential Issues for Further Consideration

Additional work would be needed to fully understand, assess, and offer potential recommendations to address the problems identified in this audit. We developed several additional questions that future audits of the price verification program could address.

- 1. How could Kansas best develop and maintain a complete inventory of point-of-sale systems across the state?** In this audit we determined the program did not maintain a complete inventory of all point-of-sale systems across the state. Additional work would allow us to determine what steps other states have taken to address the administrative challenges of maintaining such an inventory.
- 2. What best practices currently exist to help ensure adequate regulation of point-of-sale systems?** In this audit we determined program officials did not have clear expectations on how many price verification inspections staff should complete. Additional work would allow us to identify national best practices and work with other states to understand how they determine adequate coverage for price verification inspections.
- 3. What are the program's options to help increase inspection coverage of point-of-sale systems across the state?** In this audit we determined the program's price verification process did not appear to provide sufficient coverage of these systems. Additional work would allow us to evaluate whether program officials could use existing resources more efficiently to increase coverage of point-of-sale systems across the state. It would also allow us to determine the impact adding additional resources could have on the number of price verification inspections the program could complete annually.

Agency Response

On February 6, 2019, we provided copies of the draft audit report to the Department of Agriculture for an official response. We made several minor clarifications to the final report as a result of the organizations' review, but those changes did not affect any of our findings or conclusions.

The Department of Agriculture generally agreed with the audit's findings. Its response is included as this appendix.

1320 Research Park Drive
Manhattan, KS 66502
785-564-6700
www.agriculture.ks.gov



900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Acting Secretary

Laura Kelly, Governor

February 13, 2019

Justin Stowe
Legislative Post Auditor
800 SW Jackson, Suite 1200
Topeka, KS 66602-2212

Re: Limited-Scope Performance Audit Report of the
Kansas Department of Agriculture, Division of Weights and Measures

Dear Mr. Stowe:

The Kansas Department of Agriculture appreciates the opportunity to provide comments on the findings of the Legislative Division of Post Audit regarding the Price Verification Process of KDA's Division of Weights and Measures (the "Division").

Ensuring accurate pricing is a Weights and Measures' function that we take very seriously. To those ends, the Division has increased price verification inspections from 219 inspections in FY13 to 537 inspections in FY18, and we are on track to exceed 800 inspections in FY19. During the same period the Division has implemented procedures to ensure that businesses with deficiencies receive follow-up inspections until they achieve compliance. The increased focus on accurate pricing by the Division exceeds statutory requirements and was implemented without any external directives.

KDA agrees that more price verification inspections would benefit Kansas consumers, as demonstrated by the Division's increased use of resources to this end. Price verification inspection failure rates, which are typically between 45 and 60 percent depending on the period analyzed, indicate that this is an area where improvement could be made. However, the Division has many other statutory responsibilities which must be balanced with our accurate pricing responsibilities. In FY18 the Division did 44,582 total inspections. These inspections included scale, fuel meter, moisture meter, fuel quality, and package checks in addition to price verification inspections. In addition to inspections the program is also responsible for technical representative continuing education and oversight of over 400 licensees'. Simply realigning our existing resources would result in weaknesses in other areas, which could cause significant unintended consequences.

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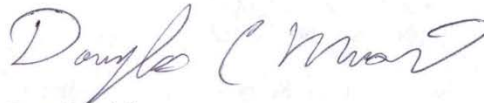
As the limited-scope performance audit report correctly identifies, it would be beneficial to document the inventory of point-of-sale systems across the state. KDA has explored options for doing this, but the task of populating and maintaining this data would take significant resources. Without a corresponding resource increase we feel that populating and maintaining this inventory data would be counterproductive to our mission.

If there is to be a significant pricing accuracy improvement in Kansas, without decreasing the effectiveness of other weights and measures functions, we feel additional resources would be needed. The funding of additional resources is an issue for further consideration.

Sincerely,



Mike Beam
Acting Secretary
Kansas Department of Agriculture



Doug Musick
Weights and Measures Program Manager
Kansas Department of Agriculture