Approved: 3-5-07
Date

MINUTES OF THE HOUSE ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE

The meeting was called to order by Chairman Lana Gordon at 3:30 P.M. on February 28, 2007 in Room 519-S of the Capitol.

All members were present except:
Valdenia Winn- excused
Broderick Henderson- excused

Committee staff present:
Kathie Sparks, Kansas Legislative Research Department
Hank Avila, Kansas Legislative Research Department
Jason Long, Revisor of Statutes
Ann Deitcher, Committee Assistant

Conferees appearing before the committee:
Laurel Murdie, Legislative Post Audit Division
Patty Clark, Department of Commerce
Rae Ann Davis, Department of Commerce

Others attending:
See attached list.

Laurel Murdie offered a report on the "findings, conclusions and recommendations from the completed performance audit, *Workforce Development: Reviewing the Use of Workforce Investment Act Moneys in Kansas."* (Attachment 1).

Questions and answers followed.

Following this, Ms. Murdie reported on the "Department of Commerce: Personnel Practices Related to Employees in the Divisions of Business and Workforce Development". (Attachment 2).

Questions and answers followed.

Patty Clark responded to the Post Audit report regarding the Department of Commerce's personnel practices related to the Divisions of Workforce Development and Business Development. (Attachment 3).

Ms Clark and Rae Ann Davis both testified in response to the Post Audit report on workforce development and the Workforce Investment Act (WIA) in Kansas. (Attachment 4).

The meeting was adjourned at 5:15 p.m. The next meeting is scheduled for Thursday, March 1, 2007.

HOUSE ECONOMIC DEVELOPMENT & TOURISM COMMITTEE GUEST LIST

DATE: 2-28-07

Ted Warner	Ks Govt. Consulting
Derek Hein	Hein Law Firm
Jacquelyn Koehler	Kansas, Inc.
[illegible]	Kansas Inc
M. [illegible]	VIA CHRISTI HEALTH SYSTEM
B.J. Brady	Capitol Strategies

LEGISLATURE OF KANSAS

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August 31, 2006

To: Members, Legislative Post Audit Committee

Senator Les Donovan, Chair	Representative John Edmonds, Vice-Chair
Senator Anthony Hensley	Representative Tom Burroughs
Senator Nick Jordan	Representative Peggy Mast
Senator Derek Schmidt	Representative Bill McCreary
Senator Chris Steineger	Representative Tom Sawyer

This report contains the findings, conclusions, and recommendations from our completed performance audit, *Workforce Development: Reviewing the Use of Workforce Investment Act Moneys in Kansas.*

The report includes several recommendations for ensuring that the Workforce Network of Kansas fulfils its responsibilities, and for ensuring that the Department of Commerce improves the effectiveness of its monitoring efforts, and that it takes steps to remove itself from the position of monitoring its own performance in Local Areas 3 and 5. In addition, it includes recommendations for ensuring that the contracting process for services provided with Workforce Investment Act moneys is open to competition, as well as recommendations for improving the coordination that exists among workforce development programs in Kansas.

As part of our performance audit, we identified three main categories of programs that met the definition of workforce development developed by the Joint Committee on Economic Development in 2005. Those categories included State and federally funded programs, business training partnerships, and multiple certificate or associate in applied science degree programs and short courses offered by education institutions. Because of its length, an extensive listing of these categories was not included in this audit report, but is available from the Division's offices as an addendum.

We would be happy to discuss the recommendations or any other items in the report with any legislative committees, individual legislators, or other State officials.

Barbara J. Hinton

Barbara J. Hinton
Legislative Post Auditor

Economic Development & Touris
Date: 2-28-07
Attachment # 1-1

Overview of the Workforce Investment Act

The Workforce Investment Act of 1998 replaced the former federal Job Training Partnership Act and was intended to streamline access to workforce services, reduce duplication of employment-related services, and encourage coordination among federally funded workforce programs.

Involving State and local officials in decisions and employment and training programs is an important component of the Workforce Investment Act. *The Act represents a philosophical shift in how employment services are provided—the unemployment office is no longer the primary place for job seekers to get help. The Act requires a specific administrative structure, including a state-level advisory workforce investment board, a statewide strategic plan, and designated local workforce investment areas. At the local level, elected officials appoint a local workforce investment board, and by July 2000, each local area was required to have a One-Stop center—a place where job seekers and employees could easily access the services they need.* .... page 4

In July 2004, administration of the Workforce Investment Act in Kansas was transferred to the Department of Commerce. *Executive Reorganization Order 31 moved all workforce-related programs—except unemployment insurance—to the Department of Commerce. The reorganization transferred $39.2 million (including $237,350 from the State General Fund) and about 314 FTE from the Department of Human Resources.* .... page 6

Kansas received about $21 million in Workforce Investment Act funds during fiscal year 2006. *The Workforce Investment Act has three basic funding streams to provide services to youth, adults, and dislocated workers. In general, up to 15% of the moneys states receive under the Act each year can be kept at the state level to cover statewide costs. The rest is passed on to local workforce investment areas to fund their programs.* .... page 7

About 5,500 job seekers received services funded through the Act in 2005. *Of those, about 1,700 were adult workers,1,400 were dislocated workers, and 2,400 were disadvantaged youth. Services for adult and dislocated workers include core services such as skills assessment, intensive services such as case management, customized training services (including financial assistance to pay for tuition and books), and supportive services (including dependent care assistance). Services for youth include assistance obtaining a high school diploma or GED, employment services (such as internships and occupational skills training), summer employment, and leadership development opportunities.* .... page 8

Question 1: Does the Administrative Structure Kansas Has Established For the Workforce Investment Act Comply With the Requirements of the Act?

The overall administrative structure in Kansas conforms to the requirements of the Workforce Investment Act. *Kansas hasn't created any boards or other administrative entities that go beyond what the Act contemplates. The Department of Commerce has considered but decided against reducing the number of local workforce investment areas. Kansas currently has five; most neighboring states have more.* .... page 11

We identified several problems related to administration at both the State and local levels. *Although Kansas' overall administrative structure is in-line with the Workforce Investment Act, we noted the following:* .... page 13

Problems at the State level:

- *The Workforce Network of Kansas has met only sporadically since it was created.*
- *The State's efforts to monitor workforce development programs—a key part of the State's administrative responsibilities—haven't been carried out well in recent years.*
- *The Department of Commerce serves as the administrative entity for two local areas. That creates a conflict of interest because the Department also is responsible for overseeing and monitoring the performance in these local areas.*

Problems at the local level:

- *The One-Stop centers in three of the State's five local areas aren't fully in compliance with the Workforce Investment Act. One-Stop centers are where locally available workforce development programs, or "partners," are required to co-locate—either physically or technologically—and provide services. The centers in Local Areas 1 (western Kansas), 3 (Kansas City), and 5 (southeast Kansas) are missing some of the programs required to provide services there.*
- *Federal officials have raised questions about the composition of the chief elected officials board in Local Area 4 (Wichita), noting that some members are from outside the Area's geographic boundaries and some aren't locally elected.*

Question 2: How Much of the Workforce Investment Act Funding Is Being Spent on Administration and Oversight, and How Much Is Being Spent Directly on Worker Training and Assistance Activities?

In fiscal years 2004 and 2005, an average of 11% of the Workforce Investment Act moneys was spent for administration. *The Act requires states to report their spending in two categories: administration and program costs. Under federal law, the Department of Commerce can spend up to 5% of total available funding (which translates into 33% of the money it retains each year) on administrative costs. Local Areas can spend up to 10% on those costs.* .... page 19

For the past two fiscal years, between 7% and 11% of the Workforce Investment Act moneys the local areas spent was for administration. The Department's percentage was 44%, but that's because it passes on a significant portion of the moneys it receives under the Act to the local areas to spend. If these pass-through moneys were considered to be Department expenditures, the Department's percentage for administration would drop to an average of about 22%, and the local areas' percentages would increase somewhat.

Most administrative money was spent on salaries and wages for employees administering the program, and for professional services such as accounting and consulting services. The bulk of the money spent on program expenses also was for contractors and employees who provided direct services to job seekers.

Expenditures varied significantly from area to area and from year to year. *That's partly because the number of enrolled job seekers can change significantly from year to year. Local Area 1 (western Kansas) had the highest expenditures per job seeker in 2005 ($3,913 compared with an average for all areas of $2,854). Local Area 3 (Kansas City) had a large increase in expenditures per job seeker (up $694 per job seeker from 2004 to 2005), while the number of people decreased by about 1,000 (down one-third from the previous year). Local Area 5 (southeast Kansas) had the highest cost per person in 2004 at $3,300, and the second highest in 2005 at about $3,500. Local area officials pointed out various factors that affected their expenditure levels.* .... page 22

Monitoring reviews have pointed out a number of problems related to fiscal procedures and the spending of Workforce Investment Act moneys. *We read recent federal reviews and reviews conducted by the Department of Commerce's monitoring unit, as well as recent CPA reports of local areas. Those reviews and reports showed that Local Area 1 (western Kansas) has had significant problems with a former administrative entity. Local Area 2 (northeast Kansas) hasn't had any recent federal reviews and there were no findings related to financial matters. For Local Area 3 (Kansas City), reviews showed that the Department of Commerce, which serves as the Area's administrative entity, doesn't have a contract with the Area giving it authority to sign* .... page 24

documents binding the board. Federal reviews of Local Area 4 (Wichita) showed, among other things, poor cash-management practices. For Local Area 5 (southeast Kansas), the Department also serves as administrative entity, and federal reviews cited a lack of formal oversight of service providers. Statewide, a federal review showed that the Department hadn't followed-up on earlier federal findings, including not providing technical assistance to local areas.

During this audit, we noted several additional issues related to spending of Workforce Investment Act funds. *Local Area 4 (Wichita) significantly increased its leasing costs between 2005 and 2006. Lease space increased by slightly more than 35,000 square feet and annual rent increased by almost $572,000 when Area officials leased nearly 61,000 square feet to house the Area's comprehensive One-Stop center. We can't say whether Area 4 has leased more space than it needs, but when we visited the One-Stop center we saw a significant amount of what appeared to be underutilized or open space.* ....page 25

In addition, the Department was using income it got from subleasing two buildings in Local Area 5 (southeast Kansas) for other purposes, rather than using it to offset the costs it charged to federal workforce programs. In August 2006, Department officials provided documentation showing they had corrected the problem.

Most local areas provide $3,000 to $6,000 in individual training accounts over a two-year period for job seekers who want financial assistance for tuition and books. Officials in Local Area 4 (Wichita) told us they allow up to $8,000 per person because of higher tuition costs in the Wichita area.

Three of the five local workforce investment areas have had difficulty meeting performance measures. *The State negotiates with the U.S. Department of Labor on performance goals for the Act's adult, dislocated worker, and youth programs. Local Areas 3 (Kansas City), and 4 (Wichita) historically have had the most trouble meeting their performance goals. During the first 11 months of 2006, Area 3 (Kansas City) and Area 5 (southeast Kansas) also have had difficulty meeting goals related to youth programs.* ....page 29

Question 2 Conclusion ....page 30

Question 3: What Types of Contracts Are in Place To Provide Training or Job-Assistance Services, What Are Their Terms, and Have They Been Awarded Competitively?

State purchasing laws and the Workforce Investment Act generally call for contracts to be competitively bid. *Each allows exceptions to this requirement, but only if there's a lack of competition, or when only one vendor can provide the specific service or product.* ....page 31

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As of May 2006, the Department of Commerce had 14 service contracts totaling about $1 million that were funded with Workforce Investment Act moneys. *Of the 12 contracts required to be competitively bid, nine were awarded without competition. Agencies that want to issue a sole-source contract are required to submit information to the Division of Purchases showing they've researched and found that no competition exists. For several contracts we reviewed, Department officials only reiterated why they thought the person or company was uniquely qualified to provide the service, and didn't show what steps they had taken to identify whether competition existed. In addition, for one contract for slightly more than $234,000, the Department didn't submit any information to the Division of Purchases before issuing the sole-source contract.* ....page 32

As of May 2006, the five local workforce investment areas had 31 service contracts totaling about $4.6 million that were funded with Workforce Investment Act moneys. *All but one of the contracts we reviewed in local areas were competitively bid, but we found a few problems with those that were bid. Eight out of 10 contracts in Local Area 1 (western Kansas) were expired for about a year. Local Area 5 (southeast Kansas) didn't award a contract for all youth services until very recently. The Workforce Investment Act requires local areas to contract for youth services. Local Area 4 (Wichita) pays incentives to a contractor if performance measures are met–something the contractor should already do without incentives. Finally, Local Area 5 (southeast Kansas) has a contract with the Department of Commerce that doesn't clearly spell out how much the Department will be paid.* ....page 34

In some cases, local board members had or have interest in entities contracting with the board, but those members didn't vote on the contracts. *The Workforce Investment Act prohibits local area board members from voting on matters they or the entity they represent may benefit from. Our review showed that no board employees had an interest in the entities their boards contracted with. Six board members either had or currently have an interest in an entity that has a contract, but none of those board members voted to award those contracts.* ....page 36

Question 4: What Other Programs In Kansas Meet the Definition of Workforce Development Adopted by the Joint Committee on Economic Development in 2005, and What Level of Coordination Exists for Those Programs?

The Joint Committee on Economic Development adopted the following definition of workforce development in December 2005. ....page 38

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"Workforce Development is a partnership between the State and business to develop employment opportunities with meaningful and sustainable income to Kansans and providing programs that assist business through specialized training."

Many programs and specialized training courses appear to fit the Joint Committee's definition of workforce development. *We identified three basic categories, including:* .... page 39

- *<u>State and federally funded workforce development programs that are primarily operated by State agencies</u>. In all, there are 35 State or federally funded workforce development programs. Nearly $129 million in funding was available for these programs for fiscal year 2006, and about 212,000 people and nearly 9,000 businesses received services through these programs in fiscal year 2005. About 79% of the funding came from the federal government. Four State agencies administer 31 of these programs, including the Departments of Commerce, Corrections, SRS, and the Kansas Housing Resources Corporation. Four other federally funded programs that fit the Joint Committee's definition aren't administered by a State-level agency.*

- *<u>Training partnerships between businesses and education institutions. Nearly 680 partnerships between businesses and educational institutions fit the Joint Committee's definition of workforce development</u>. Most of these partnerships exist with the State's 19 community colleges, 6 technical colleges, and 4 technical schools, and we also found a number at universities. About 24,000 people received customized training through these partnerships in fiscal year 2005. Complete funding information wasn't available.*

- *<u>Educational coursework, such as specialized certifications, some associate degree programs, and short courses aimed at qualifying a person for a specific type of job without having to fulfill additional general education requirements</u>. During fiscal year 2005, 2,300 associate degrees were awarded, about 4,500 certificates were granted, and about 29,400 people participated in short courses.*

Despite attempts to coordinate workforce development programs in Kansas, on the whole they've not been well coordinated. *Several entities have primary responsibility for coordinating workforce development programs in Kansas:* .... page 43

- *<u>The Workforce Network of Kansas</u>. As the State-level advisory board, it is responsible for assisting the governor in assuring coordination and non-duplication among the programs and activities carried out by programs in One-Stop centers.*

- *<u>The Department of Commerce</u>. As the State-level administrative entity, it administers most of the State and federally funded workforce development programs, provides staff support and financial resources* *for the Workforce Network board, receives and distributes Workforce Investment Act funds, and monitors and provides technical assistance to local workforce investment boards.*

- *Local workforce investment boards. These local boards have oversight responsibility for programs at the local level, including the One-Stop centers in those areas.*

These entities have taken a number of steps related to coordinating workforce development programs, including development of a State Plan that discusses the steps needed to coordinate programs and avoid duplication, creation of an initiative called "Kansas 1st" to integrate workforce development services with existing business services, joint funding of a liaison employee position with the Board of Regents, and significant efforts to try to develop comprehensive One-Stop centers. Nonetheless, we noted a number of problems with coordination.

The Workforce Network board has done little to ensure that employment and training programs in the State are coordinated. Until recently the board seldom met, meeting only twice in calendar year 2003, once in 2004, and twice in 2005. In addition, the board appears to have accepted a diminished role for itself, and neither the board nor the Department of Commerce currently track workforce development programs and services offered in Kansas.

Executive Reorganization Order 31 moved several programs to the Department of Commerce, but no formal coordination has been set up with the workforce development programs that stayed in other agencies–including programs at SRS, the Department of Corrections, and the Housing Resources Corporation. In addition, Local area workforce investment boards have been slow to create comprehensive One-Stop centers, which were required to be in place by July 1, 2000. Only two of Kansas' five local areas have such centers.

Other States have had mixed success in their attempts to coordinate all workforce development programs. *A 2005 study by the National Conference of State Legislatures found that states have taken various steps to try to coordinate their workforce development programs. The most common step was linking together two of the largest programs—Temporary Assistance to Needy Families and the Workforce Investment Act. At least three states—Utah, Alaska, and North Dakota—have consolidated all workforce development programs under a single agency. North Dakota later reversed that decision because the newly formed department in which programs were placed wasn't fully operational, and pulling funding from other departments created animosity.* ....page 49

Question 4 Conclusion ....page 50

Question 4 Recommendations ....page 51

This audit was conducted by Laurel Murdie, Melissa Doeblin, Brenda Heafey, and Jill Shelley. Leo Hafner was the audit manager. If you need any additional information about the audit's findings, please contact Ms. Murdie at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call us at (785) 296-3792, or contact us via the Internet at LPA@lpa.state.ks.us.

Workforce Development: Reviewing the Use of Workforce Investment Act Moneys in Kansas

The Workforce Investment Act, passed by Congress in 1998, focuses on meeting business' need for skilled workers, and the training, education, and employment needs of three specific groups of job seekers: youth, adults, and dislocated workers. One key aspect of the Act is a "One-Stop" concept where—at a single location–employees and employers could access a wide array of job training, education, and employment services.

In 2005, the Joint Committee on Economic Development spent several days hearing testimony about workforce development programs in Kansas, including a briefing on the Act and other programs operated by a variety of State or local agencies. This testimony—together with previous complaints members have heard regarding the difficulty in receiving training or job search assistance—led to a request for an audit looking at the Workforce Investment Act and other workforce development programs.

Among the general concerns cited were the lack of good information about workforce development programs that exist in multiple State agencies, and the apparent lack of oversight and coordination of those programs. Specific concerns about the Act relate to the amount of administrative structure and expense, including what various boards are responsible for, how the structure fits together, how members get appointed to oversight boards, and whether the structure complies with the requirements of the Act.

A related issue is how much of the money actually is reaching workers who are the intended recipients, how many people are receiving training and other services, and whether they appear to be benefitting from the services. Finally, legislators want to know whether the contracts being established with private entities that provide fiscal or job training services are being awarded based on competitive bids and in accordance with the requirements of law. To address these concerns and issues, this performance audit answers the following questions:

1. **Does the administrative structure Kansas has established for the Workforce Investment Act comply with the requirements of the Act?**

2. **How much of the Workforce Investment Act funding is being spent on administration and oversight, and how much**

1-10

is being spent directly on worker training and assistance activities?

3. **What types of contracts are in place to provide training or job-assistance services, what are the terms of those contracts, and have those contracts been awarded competitively?**

4. **What other programs in Kansas meet the definition of workforce development adopted by the Joint Committee on Economic Development in 2005, and what level of coordination exists for those programs?**

To answer these questions, we reviewed the Workforce Investment Act and related federal regulations, and compared the administrative structure in Kansas to the structure called for by law and regulation. We gathered information about expenditures of Workforce Investment Act moneys in fiscal years 2004, 2005, and the first several months of 2006.

We also reviewed contracts involving the Workforce Investment Act moneys to ensure that they were awarded based on best practices and requirements imposed by federal and State laws, and that they would not result in a financial benefit to people responsible for awarding the contracts.

Finally, we developed a comprehensive inventory of workforce development programs that fit the definition developed by the Joint Committee on Economic Development from information provided by State officials, universities, community colleges, technical colleges, and technical schools.

A copy of the scope statement for this audit approved by the Legislative Post Audit Committee is included in ***Appendix A***. For reporting purposes, we changed the order of the questions. Question 1 in the scope statement is reported as Question 4.

In conducting this audit, we followed the applicable government auditing standards set forth by the U.S. Government Accountability Office except that, because of time constraints, we didn't test the computer data the Department of Commerce and local workforce investment areas 1, 2, and 4 supplied to us regarding expenditures. However, we did review financial audits of the workforce investment boards and other reviews that included checks of the data. The financial audit for Local

Workforce Investment Area 4, for fiscal year 2004 found that approximately $23,300 (less than 1% of total expenditures) that should have been reported as program costs had been reported as administrative costs. However, this audit found no discrepancy in total expenditures, which is the amount reported here; no other audits or reviews determined that data had been recorded incorrectly for other local areas.

Similarly, we didn't test computer data the Department of Commerce keeps on enrollees and program performance. However, these data are routinely used by the Department and individual data elements in client files have been periodically tested for accuracy. For those reasons, neither the financial data nor the enrollee and performance data are likely to be so grossly or systematically inaccurate as to affect our findings and conclusions. Our findings begin on page 11, following an overview of the Workforce Investment Act.

1-1

Overview of the Workforce Investment Act

The Workforce Investment Act of 1998 replaced the former federal Job Training Partnership Act, and was intended to do the following:

- streamline access to workforce services
- reduce duplication of employment-related services
- encourage coordination among federal workforce programs
- meet both the needs of businesses and job seekers

Involving State and Local Officials In Decisions about Employment and Training Programs Is an Important Component of the Workforce Investment Act

Figure OV-1 summarizes the administrative structure required by the Workforce Investment Act, as well as the responsibilities of each entity involved in carrying out programs funded through the Act. Overall, the Act represented a philosophical shift in how employment services would be provided—the unemployment office was no longer going to be the primary place for job seekers to get help. At the state level, the Act requires the governor to apppoint a workforce investment board, whose members are responsible for assisting the governor in the following types of activities:

- developing a 5-year statewide strategic plan
- developing and 'continuously improving' a statewide system of activities funded through the Act
- designating local workforce investment areas (Kansas kept the same five areas designated under the Job Training Partnership Act. See ***Figure OV-2*** on page 6)
- developing linkages in order to assure coordination and non-duplication among the programs and activities
- developing a formula for allocating funds under the Act
- developing and 'continuously improving' comprehensive performance measures

In Kansas, this workforce investment board is called the Workforce Network of Kansas. In addition, the State Plan developed for Kansas designated the Department of Commerce as the State agency responsible for administering or overseeing the activities carried out under the Act.

At the local level, the Act requires the following:

- elected officials within each workforce investment area to oversee the area's workforce investment activities, including appointing members to the local area's workforce investment board
- each local area to have a youth council (this council is a subgroup of the local workforce investment board, and is required to guide the development and operation of programs for disadvantaged youth)
- each local area to have a One-Stop center—a place where job seekers and employers can easily access the services they need. This was in contrast to the unemployment office system that had been in place. These centers were intended to provide a central point of access for all federally funded workforce programs, which in turn are required to provide services at the centers. (The programs required to participate

Figure OV-1
The Workforce Investment Act Administrative Structure in Kansas

Governor

Responsibilities under the Act:
Establishes a State workforce investment board
Establishes local workforce investment areas and certifies local area boards
Oversees the Statewide workforce investment system (delegated to the Department of Commerce)

State Workforce Investment Board:
The Workforce Network of Kansas
(Members are appointed by the Governor)

Members include: the Governor, State legislators, chief elected officials, representatives of labor organizations, youth organizations, workforce investment experts, including community colleges and community-based organizations, One-Stop partners, and other representatives and State agency officials as the Governor may designate.
The Workforce Network is an advisory board responsible for assisting the Governor with:
Developing a Statewide strategic plan
Ensuring coordination and non-duplication of workforce development services
Designating local workforce investment areas
Establishing criteria to be used by the chief elected officials in appointing members to the Local Boards
Developing allocation formulas to distribute funds to the local boards for adult, dislocated worker, and youth services
Negotiating and continuously improving comprehensive state performance measures
Submitting annual reports to the US Department of Labor

Kansas has five Local Workforce Investment Areas—as shown in ***Figure OV-2***

Each Local Workforce Investment Area has the following administrative structure:

A Chief Elected Officials Board

Members include: Elected officials representing cities and counties.
Responsibilities under the Act:
Serves as grant recipient of Workforce Investment Act funds at the local area level
Appoints and certifies the area's local workforce investment boards
Partners with local boards to set policy for workforce investment system within the local area
Develops a local plan, and assists with the local board responsibilities

A Local Area Workforce Investment Board
(Members are appointed by the Local Area's Chief Elected Officials)

Members include: representatives of business in the local area, educational entities, labor organizations, community-based organizations, economic development agencies, and each of the One-Stop partners.
Responsibilities under the Act:
Develops the local area's plan and oversees the area's One-Stop center, youth activities, and employment and training activities
Selects an entity to operate the One-Stop center and eligible providers of intensive youth, adult, and dislocated worker services
Maintains a list of eligible providers with performance and cost information
Develops a budget, negotiates and reaches agreement on local performance measures
Assists the Governor in developing Statewide employment statistics system under Wagner-Peyser
Coordinates workforce investment activities with economic development strategies
Develops employer links, promotes private sector involvement
Appoints youth council members and coordinates youth activities

A Youth Council
(Members are appointed by Chief Elected Officials and Local Area Board Members)

Members include: Sub-group of Local Area Board that represent education, human service agencies, juvenile justice, law enforcement agencies, public housing authority, parents of eligible youth, former participants, Job Corps, and other experts with experience relating to youth activities.
Responsibilities under the Act:
Coordinates youth activities
Develops portions of the local plan related to eligible youth
Recommends eligible youth service providers
Oversees eligible providers of youth activities in the local area

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are summarized in ***Appendix B***. The One-Stop centers were required to be in place by July 2000.)

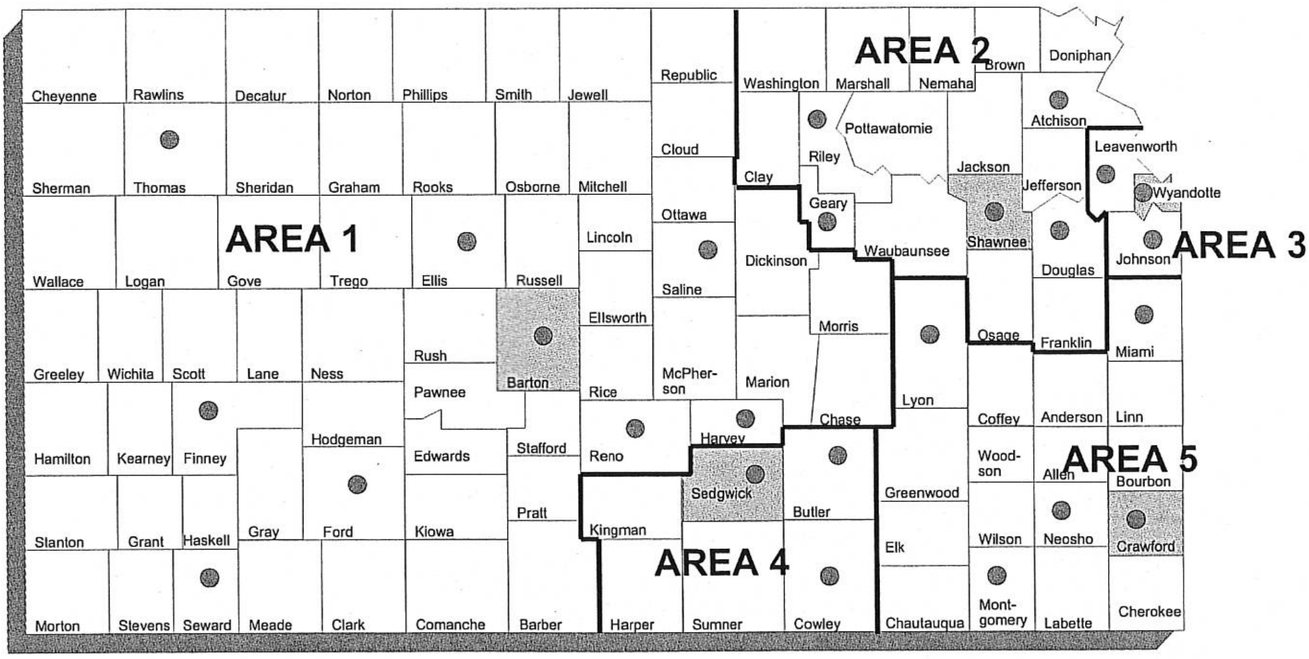
- each workforce investment board to choose an entity to help establish and operate their One-Stop center(s)
- Federal regulations also allow local areas to establish sites called workforce centers, where some but not all services may be available.

In July 2004, Administration of the Workforce Investment Act in Kansas Was Transferred to the Department of Commerce

In January 2004, the Governor issued Executive Reorganization Order 31, which moved all workforce-related programs—except unemployment insurance—from the former Department of Human Resources to the Department of Commerce effective July 1, 2004. The stated purpose of the transfer was to ensure that all Kansans had access to meaningful employment opportunities through a new integrated workforce development system, and to create a seamless, market-driven system.

The reorganization transferred $39.2 million (including $237,350 from the State General Fund) and 314 FTE from the Department of

Figure OV-2
Local Workforce Investment Areas in Kansas



Where to access services: Shaded counties represent the location of the local area's One-Stop center. All other locations are called workforce centers and are managed by the Department of Commerce. Below, by local area, we list contact information for each location .

Local Area 1:	Local Area 2:	Local Area 3	Local Area 4	Local Area 5:
One-Stop center *Great Bend* *620-793-5445*	***One-Stop center*** *Topeka* *785-235-5627*	***One-Stop center*** *Overland Park* *913-642-8484*	***One-Stop center*** *Wichita* *316-771-6800*	***One-Stop center*** *Pittsburg* *620-231-4250*
Workforce Centers: *Colby, 785-462-6862* *Dodge City, 620-227-2149* *Garden City, 620-276-2339* *Hays, 785-625-5654* *Hutchinson, 620-663-6131* *Liberal, 620-624-3565* *Newton, 316-283-4220* *Salina, 785-827-0385*	***Workforce Centers:*** *Atchison, 913-367-3283* *Junction City, 785-762-8870* *Lawrence, 785-840-9675* *Manhattan, 785-539-5691*	***Workforce Centers:*** *Kansas City, 913-281-3000* *Leavenworth, 913-682-4152*	***Workforce Centers:*** *El Dorado, 316-321-2350* *Winfield, 620-442-3130*	***Workforce Centers:*** *Chanute, 620-431-4950* *Emporia, 620-342-3355* *Independence, 620-332-1660* *Paola, 913-294-2134*

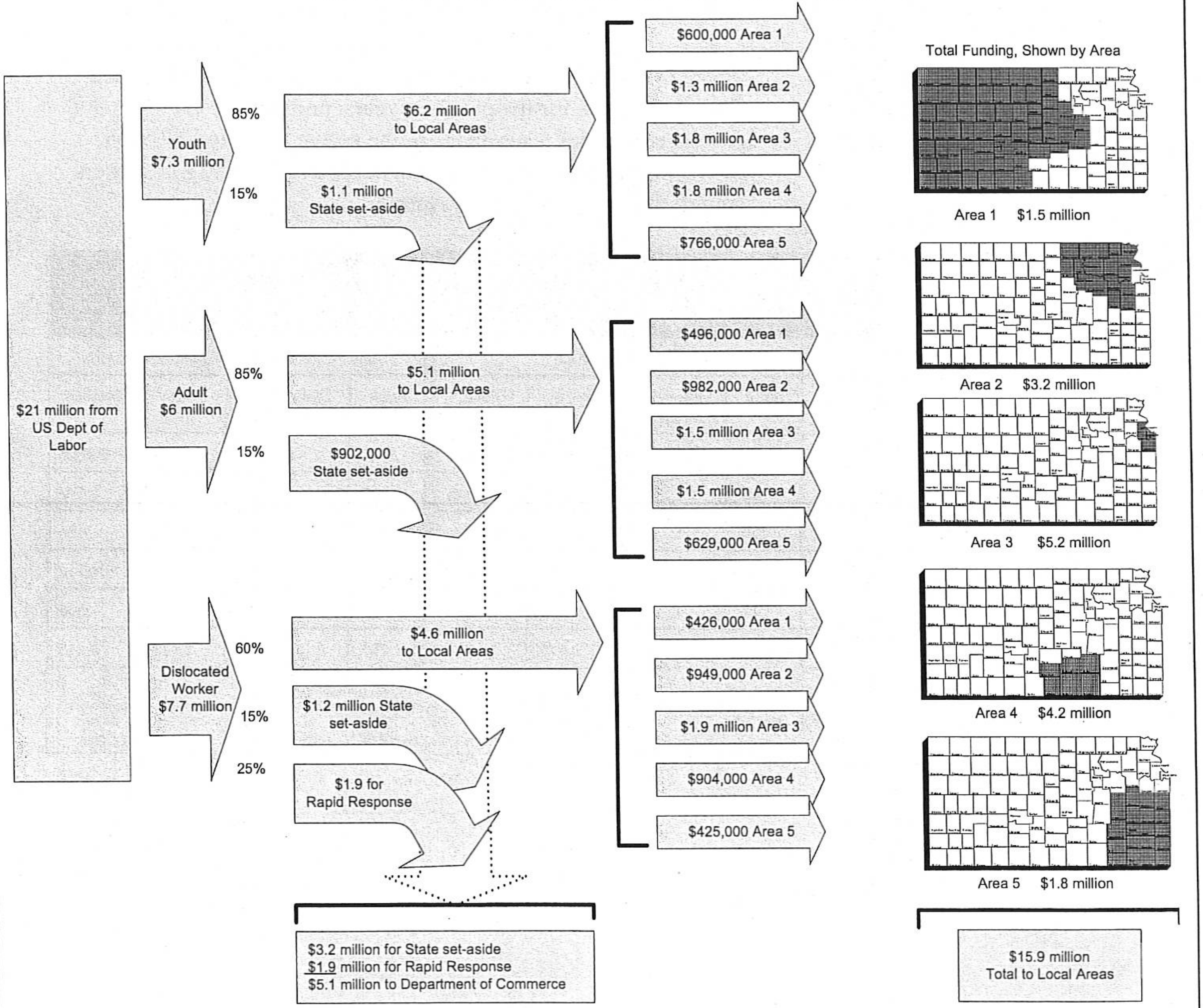
1-15

Human Resources to the Department of Commerce. Currently, about 233 FTE are involved in some aspect of administering the workforce development at the Department of Commerce.

Kansas Received About $21 Million in Workforce Investment Act Funds During Fiscal Year 2006

Figure OV-3 shows that the Workforce Investment Act has three basic funding streams to provide services to youth, adults, and dislocated workers. In general, Congress appropriates money for each state's funding based on unemployment rates and the number of disadvantaged youth.

Figure OV-3
How Workforce Investment Act Funds Are Distributed



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In general, states are allowed to keep up to15% of the moneys they receive under the Act each year to cover statewide costs. The rest is passed on to local areas to fund their programs. In addition, at the State level, Workforce Investment Act funds can be spent over a three-year period. For example, funds spent during fiscal year 2005 may come from funds granted in fiscal years 2003, 2004 and 2005.

Kansas received nearly $21 million in Workforce Investment Act funds in fiscal year 2006. As allowed by the Act, the Department of Commerce retained about $5.1 million and passed the remaining $15.9 million to the State's five workforce investment areas. Besides administrative and other special project costs, the Department uses these funds for a program called "Rapid Response." That program provides no-cost job search and unemployment information to laid-off workers.

About 5,500 Job Seekers Received Services Funded Through the Act in 2005

Figure OV-4 shows the number of job seekers enrolled in each of the local areas for the past two years, and ***Figure OV-5*** on the next page provides a summary of the services funded through the Workforce Investment Act and made available to job seekers through the One-Stop center system.

Figure OV-4
Job-Seekers Receiving Workforce Investment Act-Funded Services, by Local Area

	State Fiscal 2005				State Fiscal Year 2006 (to June 5, 2006)			
Area	Adult	Dislocated Worker	Youth	Total	Adult	Dislocated Worker	Youth	Total (a)
1	114	233	174	521	144	210	215	568 (a)
2	425	224	396	1,045	746	113	320	1,179
3	537	287	1,081	1,904 (a)	235	126	274	635
4	291	536	533	1,356 (a)	339	212	497	1,047 (a)
5	315	130	228	673	239	135	212	586
State	1,682	1,418 (b)	2,412	5,507	1,703	796	1,518	4,015

(a) The total does not include job seekers enrolled in more than one program during the year.
(b) The Statewide total is higher than the sum of the five local areas because it includes 8 job seekers whose benefits were paid solely with State money.
Source: Reports produced by America's Job Link Alliance (Dept of Commerce) for submission to US Department of Labor.

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Figure OV-5
Types of Services Job Seekers Can Receive Through the Workforce Investment Act

Services for Adult and Dislocated Workers:

Core Services are available to all job seekers, and include:
- determining eligibility and finding financial aid for programs not funded under the Workforce Investment Act
- assessing skill levels, aptitudes, abilities, and need for other services (this is a high-level initial assessment)
- assisting with job applications, writing resumes, improving job-seeking skills, and making job referrals

Intensive Services are available to job seekers who haven't been able to find employment by using core services, and include:
- assessing skill levels and service needs–a comprehensive and specialized assessment
- developing a detailed individual employment plan to identify goals and services needed to achieve them
- group counseling
- case management, which includes frequent contacts between the program worker and the job seeker
- relocating the job seeker to another area for employment or training

Training Services, including financial assistance to pay for tuition and books, is available to job seekers who, even after receiving at least one intensive service, haven't been able to get a job. To receive financial assistance with books and tuition, the job seeker must select a training program that's directly linked to an actual employment opportunity, and must be unable to obtain other assistance (such as Pell grants) to pay for training. The types of training include:
- customized training to meet particular requirements of an employer (employer must pay at least 50% of cost)
- job readiness training to teach job retention and life skills
- basic or advanced training required for specific occupations in demand in the local area; this training often is provided at post-secondary institutions
- on-the-job training
- adult education and literacy training, which may be offered only in conjunction with other types of training

Supportive Services are provided when job seekers otherwise would be unable to participate in other Workforce Investment Act activities. They include:
- dependent care
- transportation between home and work, training, or other supportive services
- emergency services needed to allow the job seeker to continue in Workforce Investment Act programs

Services for Youth

Educational Achievement Services are designed to assist youth in obtaining a high school diploma or GED. They include alternative schooling, tutoring, study skills training, and dropout prevention services, such as counseling.

Employment Services include many of the intensive and training services adults receive, plus a few more:
- internships with employers
- structured learning experiences in a workplace for limited periods of time
- occupational skills training
- on-the-job training

Summer Employment Opportunities. These jobs must provide direct links to academic and occupational learning. Participants must be provided with at least a year of follow-up services

Additional Support: These services include mentoring for at least a year, counseling to overcome or prevent drug or alcohol abuse, and other types of guidance and counseling.

Leadership Development Opportunities: This training is intended to develop youth as citizens and leaders. The types of training include
- citizenship, such as parenting, work behavior, and budgeting
- positive social behavior
- life skills, such as enhancing self-esteem, balancing commitments, examining career choices, and parenting
- teamwork

For example, Local Area 2 contracts with an entity called Van Go Mobile Arts to employ disadvantaged teens and young adults to create aart projects.

Source: Kansas Department of Commerce Business Development Policy and Procedures Manual.

Question 1: Does the Administrative Structure Kansas Has Established for the Workforce Investment Act Comply With the Requirements of the Act?

ANSWER IN BRIEF: *Kansas' administrative structure conforms to the requirements of the Act, but we identified several problem areas. First, the state-level advisory board responsible for assisting the Governor–the Workforce Network of Kansas–has met only sporadically since it was created. In addition, the State's monitoring of workforce development programs–a key part of the State's administrative responsibilities–has not been carried out well in recent years. We also noted the Department of Commerce carries out administrative duties on behalf of two local workforce investment boards, which conflicts with its State-level oversight and monitoring role. At the local level, we found that One-Stop centers in three of the five local workforce investment areas don't fully comply with the Act, mostly because they lack representatives from all the programs that are required to provide services in the centers. These and other related findings are discussed in more detail in the sections that follow.*

The Overall Administrative Structure in Kansas Conforms to the Requirements of the Workforce Investment Act

One of the legislative concerns expressed when this audit was approved was that there was too much administration involved in carrying out the workforce development programs funded through the Workforce Investment Act. Extra layers of administration would consume part of the money that was intended to provide services to job seekers and businesses.

Kansas hasn't created any boards or other administrative entities that go beyond what the Workforce Investment Act contemplates. The Act itself calls for a somewhat top-heavy administrative structure. As noted in the Overview, it requires states to establish a series of state and local boards, most of which are to be made up of people with diverse backgrounds. This structure is intended to push decision-making down to the State and local levels, where it's assumed officials will have a better grasp of the services and programs local job seekers and businesses actually need.

As ***Figure I-1*** on the next page shows, Kansas has set up an overall administrative structure that basically mirrors what's called for in the Act. Kansas has designated five local workforce investment areas, each of which has the following required structure:

- a chief elected officials board
- a local area workforce investment board
- a One-Stop center operator

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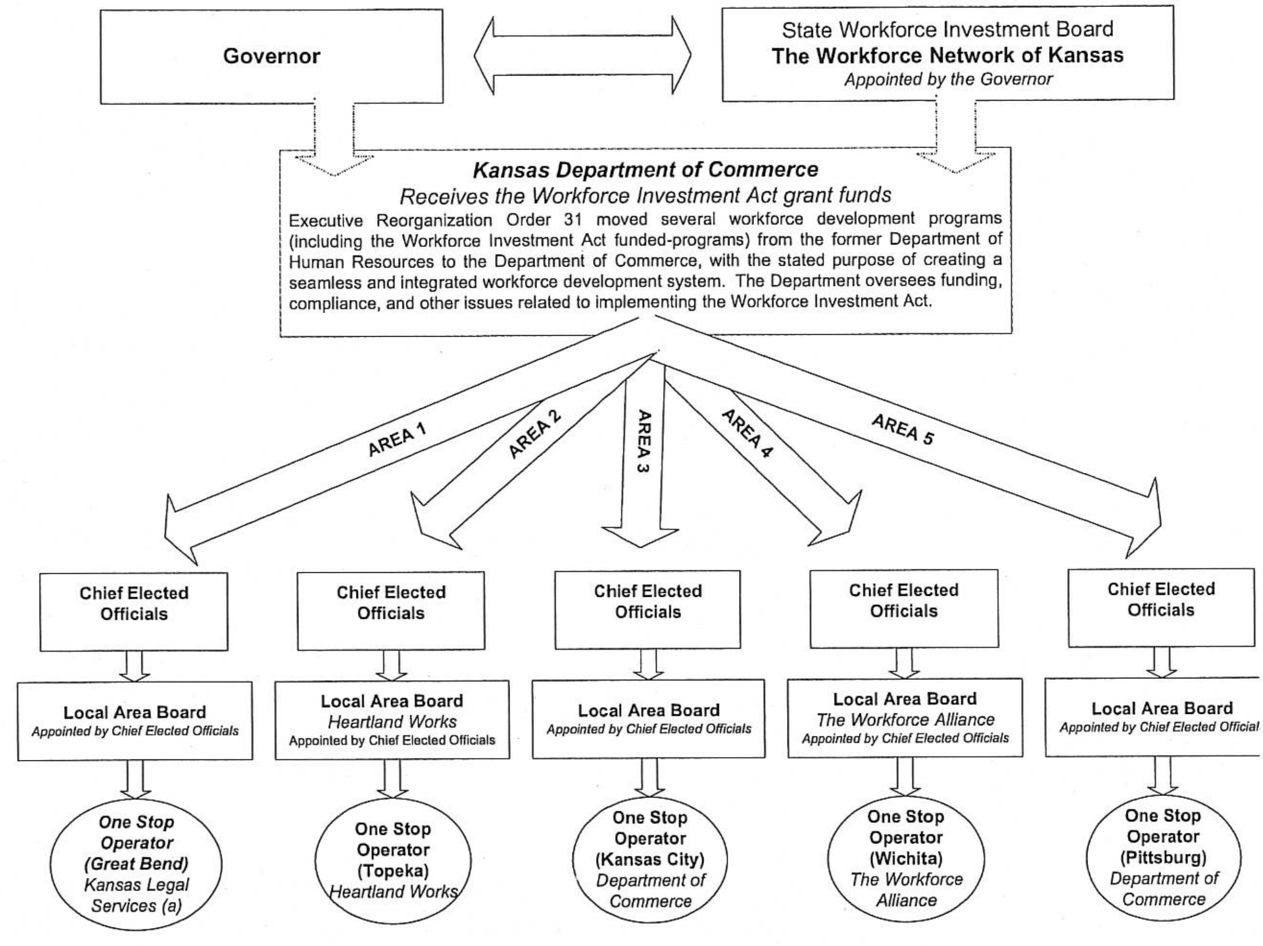
Figure 1-1
How the Workforce Investment Act Is Structured in Kansas



(a) Local Area Officials told us that as of mid-September 2006, this One-Stop will be operated by a consortium group, including Kansas Legal Services, the Department of Commerce, and Barton County Community College.

The Department has considered but decided against reducing the number of local workforce investment areas. In designating the boundaries for local workforce investment areas, the Governor and State Board were required to consider a number of factors, including:

- the geographic locations served by local education entities—such as school districts
- geographic locations served by post-secondary schools, including vocational schools
- the extent to which local areas will be consistent with labor market areas
- the distances people will need to travel to get services in the local areas

The decision was made to keep the same five areas designated under the Job Training Partnership Act. Most neighboring states have more local workforce investment areas than Kansas—Colorado has 9, Missouri has 14, Oklahoma has 12, and Nebraska has 3.

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Department of Commerce officials told us they'd been considering the benefits and drawbacks of having fewer than the current five local workforce investment areas designated in Kansas. One benefit was the ability to more uniformly administer the Workforce Investment Act. The drawback, however, would be that fewer decisions would be made at the local level.

Department officials also told us that, in its last appropriations bill for calendar year 2005, Congress specifically prohibited the U.S. Department of Labor from approving any state's request to change local workforce investment areas until after the Workforce Investment Act was re-authorized. During this audit, Department officials told us they are no longer considering making changes in this area.

We Identified Several Problems Related to Administration at Both the State and Local Levels

Although Kansas' overall administrative structure is in-line with the Workforce Investment Act, we identified problems related to how that administrative structure is being carried out. These problems are summarized in the sections that follow.

PROBLEMS WE NOTED AT THE STATE LEVEL

The Workforce Network of Kansas has met only sporadically since it was created. Governor Graves established the board in 2001 by Executive Order 01-06. The current board has 32 members, including the Governor, legislators, representatives of labor and youth organizations, and other workforce investment experts.

Although the board's operating guidelines require it to meet on a quarterly basis, it met only twice in 2003, once in 2004, twice in 2005, and twice so far in 2006. Other issues we identified with the board are discussed in Question 4.

The State's efforts to monitor for workforce development programs—a key part of the State's administrative responsibilities—have not been carried out well in recent years. The Workforce Investment Act requires each state to conduct on-site monitoring reviews of local workforce investment areas, and to monitor service providers within those areas. The problems we noted were as follows:

- Problems existed when the monitoring function was housed in the Department of Human Resources. In late 2002, staffing for this function was reduced from 4.5 to 2.5 full-time equivalent employees because of uncertainties about the possible merging or reorganization of State workforce development programs. An August

2004 review by the U.S. Department of Labor found that Kansas' oversight system had been "non-functional for at least the past year and three months," with the most recent monitoring report issued in May 2003. The federal review also noted that a fully implemented oversight system was especially important in the early stages of program administration by the Department of Commerce–where programs had been transferred to in July 2004.

- Monitoring problems continued for a period of time after responsibility for workforce development programs was transferred to the Department of Commerce. When the transfer occurred, monitoring staff were moved into the Department's legal section. It continues to be staffed with 2.5 full-time-equivalent employees. The manager of the Monitoring Unit told us he didn't have enough staff to effectively carry out the Unit's current responsibilities.

  Finally, in April 2005, the U.S. Department of Labor review again cited the State for not having an adequate oversight system. This follow-up review was conducted to determine the State's progress toward resolving issues identified during reviews in early 2003. The follow-up cited that the Department didn't know whether earlier federal review findings had been corrected, and that no local workforce investment area's programs had been reviewed since 2002.

  In its response to this performance audit, the Department showed it had issued a number of reports since July 2004. Six of those reports were reviews of local area programs and were issued between September 2005 and June 2006.

The Department of Commerce serves as the administrative entity for two local areas, which creates a conflict of interest. The Department runs the day-to-day operations in Local Area 3 (Kansas City) and Local Area 5 (southeast Kansas), including operating those Areas' One-Stop centers. Department officials told us they simply took over the administrative structure used by the Department of Human Resources when it had responsibility for the program.

Because the Department also is responsible for overseeing and monitoring the State's local areas to ensure that moneys are being spent appropriately and services are being provided, this arrangement creates a conflict-of-interest situation—the Department is in the position to monitor its own performance in these two Areas.

Department officials told us they've considered phasing out the Department's administrative role in Local Areas 3 and 5, and that they are currently helping Local Area 3 draft a request for proposals for another entity to take over this function. Federal regulations prohibit contractors from bidding on proposals they've helped develop, and the Department has decided not to bid on this RFP.

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We noted two other problems related to the Department's day-to-day administration of Local Area 5:

- Recent U.S. Department of Labor reviews showed that Local Area 5 wasn't formally monitoring the services being provided through the Workforce Investment Act. As the administrative entity for Local Area 5, the Department is responsible for monitoring the provision of these services. However, Department employees provide all these services through the arrangement described above. As a result, no monitoring is taking place.

- The local workforce investment board in Local Area 5 (southeast Kansas) has had difficulty getting detailed budget information from the Department of Commerce. In Local Area 5, the Department performs all the administrative functions for the Area, operates the One-Stop center, and actually spends much of the Area's money providing services to job seekers. The local workforce investment board has requested detailed reports showing funding available, actual spending on direct training to job seekers, and carryover balances. The board chairperson told us the Department has provided some information, but that it wasn't timely and in a format that could be easily understood, and wasn't useful in helping the board make decisions.

PROBLEMS WE NOTED AT THE LOCAL LEVEL

The One-Stop centers in three of the State's five local areas aren't fully in compliance with the Workforce Investment Act. The Act required local workforce investment boards in each local area to have a One-Stop center in place by July 1, 2000, where locally available workforce development programs, or "partners," that received federal funds were required to co-locate—either physically or technologically. The Department itself would be considered the partner for any of these programs it administers at the State level. Other pertinent requirements:

- the development of cost-sharing agreements with One-Stop partners for the center's operations
- the development of memoranda of understanding with One-Stop partners that describe such things as program services, funding sources, referral procedures between / among partners, and the like
- the selection of a One-Stop operator for each area [as noted above, the One-Stop operator in Local Areas 3 and 5 is the Department of Commerce]

Based on our reviews of the One-Stop centers, we found the following:

- Local Areas 2 (northeast Kansas) and 4 (Wichita) appear to have One-Stop centers. Each of these One-Stop centers have, where locally available, representatives from program partners, and the local area's board has developed the required cost-sharing agreements and memoranda of understanding with the partners.

- One-Stop centers in Local Areas 1 (western Kansas), 3 (Kansas City), and 5 (southeast Kansas), don't fully comply with the Act. As recently as mid and late 2005, U.S. Department of Labor officials cited Local Areas 1 and 3 as not having comprehensive One-Stop centers because programs mandated to provide services in the centers weren't physically co-located in the One-Stop centers. In addition, federal reviews cited Local Area 3 as not having agreements in place detailing how program partners would share costs to run the One-Stop center.

  Our review showed that Local Area 3 currently lacks a representative from the Vocational Rehabilitation Program and similarly, the One-Stop center in Local Area 5 lacks a veterans employment representative. The Department of Commerce serves as the One-Stop operator in Local Areas 3 and 5 and also houses several of the federally funded programs that are required to provide services through the One-Stop center. Finally, we found that the One-Stop center in Local Area 1 lacks at least two required partners, including representatives from the Trade Adjustment Assistance and Vocational Rehabilitation programs.

  The Act requires a statewide system that delivers services through One-Stop centers. Some other states have standards for "certifying" their One-Stop centers–that certification process ensures that the centers are operating according to the Act. Recently, the Workforce Network of Kansas appointed a committee to draft a One-Stop certification process.

Federal Officials have raised questions about the composition of the chief elected officials board in Local Area 4. In this area, a 12-member subcommittee from an entity called the Regional Economic Area Partnership (REAP) serves as the chief elected officials board. The Partnership's mission is to affect economic development in Wichita and the surrounding region by having local government units work together to make decisions. It has 64 members—two from each of the 32 cities and counties in the area.

A federal review by the United States Department of Labor in 2003 (and a follow-up review conducted in 2005) cited two problems with this arrangement:

- Three of the members are from Harvey and Reno Counties, which are outside Local Area 4's geographic boundaries.

- Three members are economic development directors, not local elected government officials.

Although federal regulations allow delegation of chief elected officials' duties, federal reviews cited concerns that it wasn't clear who would be financially liable for any mispending that may occur. Area 4 officials have attempted to resolve this issue by naming the officials involved as non-voting members. Given the current membership of the board, that would make 6 of 12 members non-voting. The U.S. Department of Labor hasn't reviewed the new agreement to determine whether it meets Workforce Investment Act requirements.

Conclusion

Given the multitude of boards, administrative agencies, One-Stop operators, and program "partners" at the State, regional, and local levels, there is a lot of administrative structure in the current workforce development program. But that structure essentially is what's called for by the Workforce Investment Act. On the other hand, some of the ways that administrative structure is being carried out—including an inactive State-level board, conflicts caused by the Department's dual role of operating two local areas while also being responsible for monitoring them, inadequate State monitoring efforts, and the lack of comprehensive One-Stop centers in all local areas—can work against the goal of having an integrated, seamless system for delivering employment and training services in Kansas.

Recommendations

1. To ensure that it is fulfilling its responsibilities under the Workforce Investment Act, the Workforce Network of Kansas should do the following:

   a. schedule and hold meetings frequently enough to take an active role in the planning and coordinating of workforce investment programs. Such meetings should at a minimum be quarterly.

   b. develop a plan that specifies the steps needed for Kansas to have comprehensive One-Stop centers that meet the intent of the Act, and through its staff in the Department of Commerce, work with local officials to ensure that those centers are established, and that all required cost-sharing agreements and memoranda are put in place.

2. To address concerns raised in federal reviews about the ineffectiveness of Kansas' monitoring program, the Department of Commerce should do the following:

   a. develop a regular schedule of monitoring efforts that will be carried out to ensure that Workforce Investment Act moneys are spent appropriately and that performance goals are met.

b. determine an appropriate number of staff to carry out that function, and staff the monitoring unit accordingly.

3. To ensure that the Department of Commerce isn't in the position of monitoring its own performance, it should work with Local Areas 3 and 5 to find another administrative entity for their programs.

4. To ensure that board members in all local areas have the information they need to make budgetary and spending decisions, the Department of Commerce should:

   a. work with the local board members to come up with report format that will serve the needs of both the Department and local board members

   b. ensure that those reports are provided to local officials on a timely basis.

5. The elected city and county officials in Local Area 4 should follow up with the U.S. Department of Labor to determine whether their new agreement conforms with Workforce Investment Act requirements.

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Question 2: How Much of the Workforce Investment Act Funding Is Being Spent on Administration and Oversight, and How Much Is Being Spent Directly on Worker Training and Assistance Activities?

ANSWER IN BRIEF:	*An average of 11% of the Workforce Investment Act moneys spent in fiscal years 2004 and 2005 was for administration, mostly for salaries and wages of the employees who administer the Act. For a variety of reasons, total expenditures per job seeker can vary significantly from area to area and from year to year. Federal and State monitoring reviews have pointed out a number of problems related to fiscal procedures in recent years, including significant problems with Area 1's administrative entity, inadequate documentation for some expenditures, inadequate contract provisions, and poor cash-management procedures. Other issues we noted related to a new building lease in Area 4 (Wichita), and the Department's use of rent money from space it has leased in Area 5 (southeast Kansas) to other agencies. We also noted that three of the five workforce investment areas have had difficulty meeting their performance measures. These and other findings are summarized below.*

In Fiscal Years 2004 and 2005, an Average of 11% of the Workforce Investment Act Moneys Spent was for Administration

The Workforce Investment Act requires states to report their spending in two categories: administration and program costs. ***Figure 2-1*** shows the types of costs assigned to each of those categories.

The rules for spending each annual allotment of moneys Kansas receives under the Act vary. The State has three years to spend the money it's allocated in any given year, while local workforce investment areas have two years.

Figure 2-1
Examples of Workforce Investment Act Administrative and Program Costs (a)

Examples of Administrative Costs	Examples of Program Costs
• accounting and budgeting • payroll • property management • general legal services • travel and office supplies required to carry out the other functions	• payments to contractors who provide youth services • payments to educational institutions on behalf of job seekers enrolled in the Act's programs • travel and office supplies needed to provide other program services • computer systems for tracking or monitoring participants or performance information (b)

(a) Accountants who audit each local workforce investment area and federal officials who conduct Statewide reviews check to determine whether program expenditures have been categorized correctly. They've identified only one instance of incorrect classification of expenditures in the past two years, and the amount mis-classified was not significant.

(b) Federal regulations allow some items—such as computer systems to track or monitor job seekers and provide performance information—to be considered program costs rather than administrative costs. The reader should be aware that that's how these costs are shown in the figures below.

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To identify how much of the funding under the Act is being spent on administration versus program costs, we looked at the following:

- federal limits on the percent of their funding the Department and local areas can spend on administration. Under federal law, the Department can spend up to 5% of total available funding (which translates into 33% of the money it retains each year for youth, adult, and dislocated worker programs) on administrative costs. (For example, of the $3.1 million the Department was allocated for fiscal year 2006, it could spend slightly more than $1 million on administrative costs.) Local areas can spend up to 10% of the amount they are allocated each year on administration. Federal reviewers have not identified any problems with the Department or the local areas spending more than the federal limits allow.

- program spending reports covering fiscal years 2004 and 2005 (the latest available) that the Department has submitted to the U.S. Department of Labor. In any year, the amount the Department or the local areas actually spend on administration as a percentage of total spending could be higher or lower than the federal limits described above. That could be because they don't spend all the allocations they receive, because they have 2-3 years to spend the money they receive, because of fluctuations in spending for administrative or program purposes (for example, administrative costs could spike in a year when a new computer system was purchased, or program costs could spike in a year when a major employer laid off a lot of workers), or because they spend more or less Rapid Response money–moneys which are earmarked to help the State and local areas respond to mass layoffs and which are counted as program spending.

Figure 2-2
Administration as a Percent of Total Spending
Department of Commerce and 5 Local Areas
Fiscal Years 2004 and 2005

	State–Dept. of Commerce	Area 1--West	Area 2--Northeast	Area 3--KC	Area 4--Wichita	Area 5--Southeast	Statewide Average
FY 2004	48.0%	7.7%	6.1%	7.5%	5.5%	9.5%	11.5%
FY 2005	39.6%	7.4%	8.9%	6.6%	7.3%	11.6%	11.0%
Weighted Average	44.2%	7.5%	7.3%	7.1%	6.3%	10.6%	11.3%

Source: LPA analysis of program spending reports submitted by the Department of Commerce to the U.S. Department of Labor.

As shown in ***Figure 2-2***, the amount spent on administration averaged about 11% Statewide for the two fiscal years combined.

Figure 2-2 also shows that the amount the Department spent on administration averaged 44%. That calculation can be misleading, because the Department passes on a significant portion of the moneys it is allocated under the Act to the local areas. In fiscal year 2004, for example, about $2.8 million of the moneys the local areas spent came from State set-aside and Rapid Response moneys the Department had passed on to them. If you consider these to be "Department" expenditures, the Department's percentage for administration drops to an average of about 22%, and the local areas' percentages increase somewhat.

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- <u>detailed expenditure data for fiscal year 2005 provided by the Department and the local workforce investment areas</u> (these data are maintained on a somewhat different basis than the data submitted on the program spending reports, so the totals won't be the same). Because program spending reports record only <u>totals</u> for administration and the adult, dislocated worker, and youth programs, we obtained and categorized detailed expenditure data. Those results are shown in ***Figure 2-3***.

Figure 2-3
Workforce Investment Act Spending During Fiscal Year 2005

	State—Dept. of Commerce	Area 1—West	Area 2—Northeast	Area 3—KC	Area 4—Wichita	Area 5—Southeast	Total
Administration							
wages & benefits	$394,500	(a)	$155,500	$209,900	$275,200	$171,700	$1,206,800
professional svcs	$203,600	$31,600	$10,000	$26,200	$153,800	$56,800	$482,000
buildings	$34,500	(a)	$26,600	$13,800	$27,900	$2,600	$105,400
office equip, supplies	$13,000	(a)	$7,300	$5,600	$43,600	$13,700	$83,200
travel	$12,500	$18,700	$1,600	$10,400	$6,400	$7,300	$56,900
computers & communication	$10,100	(a)	$16,200	$4,200	$7,100	$7,900	$45,500
board meetings	$1,600	$3,100	$4,400	$10,600	$6,600	$4,600	$30,900
other	$7,500	$96,600 (a)	-$4,100 (d)	$7,500	-$5,200 (d)	$9,200	$111,500
Admin Subtotal	$677,300	$150,000	$217,500	$288,200	$515,400	$273,800	$2,122,200
Program							
direct services (b)	$311,600	$1,840,300	$1,822,400	$3,915,400	$3,302,300	$1,864,900	$13,056,900
professional svcs	$736,300	0	0	$6,200	$34,300	$5,200	$782,000
buildings	$36,400	$12,000	$126,800	$112,600	$6,500	$63,900	$358,200
computers & communication	$17,300	0	$18,400	$77,200	$6,300	$45,200	$164,400
office equip, supplies	$21,800	0	$15,900	$32,200	$85,800	$13,500	$169,200
travel	$16,700	0	$9,000	$14,200	$31,000	$18,500	$89,400
other (c)	$5,300	0	$23,200	$26,100	$39,900	$12,100	$106,600
Program Subtotal	$1,145,400	$1,852,300	$2,015,700	$4,183,900	$3,506,100	$2,023,300	$14,726,700
TOTAL	$1,822,700	$2,002,200	$2,233,200	$4,472,100	$4,021,700	$2,297,100	$16,849,000
Administration as % of total spending	37%	7.5%	9.7%	6.4%	12.8%	11.9%	12.9%
Program spending as % of total spending	63%	92.5%	90.3%	93.6%	87.2%	88.1%	87.2%

(a) Area 1 paid Westco Management, Inc., its administrative entity, a lump sum of $94,200 for administrative services. The amounts attributable to individual spending categories couldn't be broken out.
(b) Includes amounts paid to contractors who provided services to job seekers, and wages and benefits of employees who provide direct services to job seekers.
(c) Includes insurance, advertising, postage, publications and subscriptions, and accounting adjustments
(d) Negative numbers indicate negative accounting adjustments that exceeded other expenditures in this category.

Source: Expenditure data provided by the Department of Commerce and Areas 1, 2, and 4. All numbers have been rounded.

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As the figure shows, most of the money spent on administration in fiscal year 2005 was for salaries and wages for employees who administer the program, and for professional services such as accounting and consulting services. The bulk of the money spent on program expenses also was for contractors or employees who provided direct services to job seekers. Professional services such as reports on labor markets and data management, and building expenses including rent accounted for most of the rest of the program costs.

Expenditures Varied Significantly from Area to Area and from Year to Year

Job seekers can receive a wide variety of services through One-Stop centers. For example, on a walk-in basis they can review job listings and use equipment to help prepare resumes and other employment application materials. If they enroll in a Workforce Investment Act program, they can receive staff-assisted skill assessments, job search services, case management, customized or on-the-job training, and support services such as day-care assistance and transportation.

Figure 2-4
Expenditures Per Job Seeker, By Local Workforce Investment Area
Fiscal Years 2004 and 2005

Area	Enrolled Job Seekers			Expenditures per Enrolled Job Seeker		
	2004	2005	Change	2004	2005	Change
1	648	521	-127	$2,545	$3,913	$1,368
2	1,070	1,045	-25	$2,971	$2,347	-$624
3	2,909	1,904	-1,005	$1,626	$2,320	$694
4	1,823	1,356	-467	$2,778	$2,968	$190
5	624	673	49	$3,300	$3,535	$235
Avg.	1,415	1,100	-315	$2,358	$2,854	$496

Source: LPA analysis of program expenditure data submitted by the Department of Commerce to the U.S. Department of Labor; enrollment data from the Department of Commerce

Using the program spending reports the Department submitted to the U.S. Department of Labor covering fiscal years 2004 and 2005, we computed the expenditures per enrolled job seeker for each of the five local workforce investment areas. That information is shown in ***Figure 2-4***.

As the figure shows, the number of enrolled job seekers can change significantly from year to year, which would impact expenditures per job seeker. There could be other reasons as well. Although the information we reviewed during this audit didn't allow us to fully explain the large spending differences between local areas, or from year to year within the same area, local officials pointed out a number of factors affecting their expenditure levels:

***Local Area 1** (western Kansas)—Had the highest expenditures per person in 2005. Area 1 officials said three factors contributed to this:*

- Area 1 spends more on tuition assistance for job seekers to enroll in longer-term courses, such as a two-year welding program, than other areas because of a lack of short-term training programs in western Kansas
- Area 1 has fewer job seekers over which to spread its fixed costs
- given the geographic spread in Area 1, it has higher mileage reimbursement costs
- In 2005, Area 1 paid the administrative entity that runs its day-to-day operations $86,235 more than in 2004. In addition, in 2005 it started reimbursing service providers for actual costs, rather than a flat $1,000 per person enrolled, and actual costs tended to be higher.

Local Area 3 *(Kansas City)—Had a large increase in expenditures per job seeker while the number of people decreased by about 1,000, down one-third from the previous year*. Local officials said spending didn't decrease as much as the number of job seekers enrolled because they delayed paying for training received by a record number of job seekers in 2004. They said they delayed payment because some post-secondary institutions didn't bill for services until several months after job seekers had completed a semester of training.

Local Area 5 *(southeast Kansas)—Had the highest cost per person in 2004, and the second highest cost per person in 2005*. Local officials cited several reasons:

- they had encouraged spending increases so that available money wasn't held until the next year
- more job seekers were less job-ready than in other local areas, and required education or occupational skills before they could apply for available jobs
- they had purchased a new communications system
- their workers must drive to meet with job seekers in the area's many small communities

Finally, we looked at the following areas because of legislative questions that had been raised about them.

The Department's use of Workforce Investment Act moneys for furniture and office remodeling costs was allowed under the Act. During fiscal year 2005, the Department spent about $48,000 in job training moneys (about $20,000 was Workforce Investment Act moneys) for furniture and office remodeling. Those expenses were incurred after the program was transferred from the Department of Labor, and about $24,000 was for furniture for employees associated with the initiative called "Kansas 1st." A U.S. Department of Labor official told us that Workforce Investment Act moneys can be spent on furniture and remodeling services.

The number of job seekers 55 and older and the amounts spent on them have decreased in recent years. We were asked to provide information about job seekers age 55 and older who were provided services through the Workforce Investment Act. Department officials were able to provide separate spending data for older job seekers only for training services, intensive services, and support services. Those data show that both the number of older job seekers and the amounts spent in those categories decreased from 2004 to 2005:

- older job seekers Statewide decreased from about 377 to about 231.
- Statewide, the average amount spent per older job seeker in these categories decreased from about $1,450 to $1,200.

We also noted that 90% of the spending in 2004 and 73% in 2005 was for services provided through individual training accounts, which include payments for tuition, books, and supplies for classroom training.

Monitoring Reviews Have Pointed Out a Number of Problems Related to Fiscal Procedures and the Spending of Workforce Investment Act Moneys

We read three years of reviews conducted by the U.S. Department of Labor, as well as recent reviews conducted by the Department of Commerce's Workforce Compliance and Oversight Unit, which conducts the State-level monitoring required by the Act. Examples of some of the more significant findings related to financial controls and spending issues are summarized below:

Area I (western Kansas)—Federal reviews in 2003 and 2005 and a CPA report pointed out significant problems with the Area's administrative entity at the time—Westco Management, Inc.—and with the contract between the Local Area board and Westco. Among the issues cited:

- the contract with Westco was so unclear regarding its pricing and terms that it "puts WIA funds at risk," showed some funds being budgeted for activities that weren't allowed under the Act, and contained incentives that didn't comply with terms of the Act
- Westco didn't appropriately segregate duties, had poor cash-management practices, couldn't provide supporting documentation for certain amounts it was charging the local area, and didn't have written fiscal policies or proper budget procedures.
- the CPA review identified a nearly $168,000 increase in compensation to Westco without a corresponding contract modification, and cited Westco's use of program moneys to help fund more than $130,000 in bonuses over a two-year period. More than $102,000 of those bonuses went to the founder and his family members. In July 2005, the local area board ended its contract with Westco, and used Barton County Community College as its administrative entity, until July 1, 2006. The board now provides its own administrative services.

Area 2 (northeast Kansas)—The U. S. Department of Labor published no reviews of Area 2 in the past three years. According to Department officials, that's because its main responsibility is to monitor the Workforce Investment Act recipient–the Department of Commerce. In addition they said, when resources are available they expand their oversight to include local areas. The Department of Commerce's monitoring unit reviewed Area 2's monitoring of its service providers in March 2005; there were no findings related to financial matters.

Area 3 (Kansas City area)—The Department of Commerce serves as Area 3's administrative entity. Federal reviews in March and July 2005 reported the following:

- the Department didn't have a contract with the local area board to serve as its fiscal agent, and there was no formal document giving the Department the authority to sign official documents binding the local workforce investment board or chief elected officials board.
- Shared costs for the One-Stop center program "partners" weren't being correctly identified, and auditors couldn't trace reported monthly costs to State records.

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Area 4 (Wichita area)—A federal review from November 2004 cited the following:

- Records for on-the-job training payments were insufficient; in all, $43,544 in payments were questioned.
- Many invoices submitted by one contractor were paid without supporting documentation; the documentation for some showed that the costs were unallowable or unreasonable.
- The Area's paymaster contract didn't specify a price ceiling or estimate a number of transactions, so there was no way to determine a cap amount. In another contract, indirect costs weren't applied consistently, and payment totals exceeded the budget.
- The Area had poor cash-management procedures. Several checks had been outstanding for five months or more, and a cash advance of more than $16,000 to the City of Wichita's Career Development Office should have been canceled when the City stopped being the administrative entity for the Local Area.

Area 5 (southeast Kansas)—The Department of Commerce serves as the administrative entity for this local area. A federal review in September 2004 cited a general finding of a lack of formal oversight activity of area service providers. Other findings were not related to spending. A State monitoring report in November 2005 cited the Area for not issuing competitive requests for proposals to provide youth programs.

Statewide Issues—A federal review in 2005 following-up on earlier findings cited the Department for failures in several areas:

- The State wasn't sufficiently informed about how much cash local areas had on hand.
- The State had not been providing oversight, and the monitoring unit had not been performing its tasks.
- Local areas had not received the technical assistance they needed (such as guidance on completing expenditure reports correctly), so problems with the local areas compounded.

During This Audit, We Noted Several Additional Issues Related to Spending of Workforce Investment Act Funds

These issues are discussed below.

Local Area 4 (Wichita area) significantly increased its leasing costs between 2005 and 2006. In 2005, Wichita had two separate building leases that accounted for a total of 25,700 square feet and cost about $94,000, or about $3.65 per square foot:

- the Area's administrative entity—the Workforce Alliance—leased about 3,100 square feet of office space. This lease cost about $21,000 annually.
- the Department of Commerce leased about 22,600 square feet of space from the Department of Labor that was used as the Area's One-Stop center. That space primarily housed programs operated by the Department and adult and dislocated worker programs operated by another entity, but also included one-person offices for SRS, Job Corps, the Native American program, and unemployment compensation. This lease cost about $73,000 annually.

Area 4 officials told us the old One-Stop center was not big enough to house all the mandated partners, so they decided to

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relocate and enter into a lease that would combine the One-Stop center, administrative offices, and all mandated "partners" or related programs. Late in 2005, Workforce Alliance entered into a 10-year lease for 59,500 square feet in a vacant bank building at $10.95 per square foot. The total annual lease amount was nearly $652,000. The Department of Commerce cancelled its lease for the old space and moved into Area 4's new space in February 2006. The board has since acquired an additional 1,291 square feet in the building, for a total of 60,791 square feet.

This information is summarized in ***Figure 2-5***.

Figure 2-5
Building Space Leased in Area 4 (Wichita) 2005 and 2006

<table>
<tr><th></th><th colspan="2">Old leases</th><th colspan="2">New lease</th><th colspan="2">Change, 2005-06</th></tr>
<tr><th></th><th>Square feet</th><th>Annual rent</th><th>Square feet (a)</th><th>Annual rent</th><th>Square feet</th><th>Annual rent</th></tr>
<tr><td>Workforce Alliance-administrative offices</td><td>3,109</td><td>$20,568</td><td>9,043</td><td>$99,015</td><td rowspan="3">+35,067</td><td rowspan="3">+$571,883</td></tr>
<tr><td>One-Stop center tenants</td><td>22,615</td><td>$73,210</td><td>51,748</td><td>$566,646</td></tr>
<tr><td>TOTAL</td><td>25,724</td><td>$93,778</td><td>60,791</td><td>$665,661</td></tr>
</table>

(a) This figure includes current dedicated and shared common space.
Source: LPA analysis of data provided by the Workforce Alliance, Area 4's administrative entity.

Although we couldn't perform detailed audit work of this new lease arrangement because of time constraints, we did note the following:

- the board initially attempted to enter into a lease for 64,000 square feet in the bank building in April 2005. That lease was stopped after the Department and the U.S. Department of Labor raised significant concerns about the board's non-competitive procurement process, about a conflict of interest involving a member of the board who was serving as a real estate broker for the transaction, and about spending federal funds for unoccupied space. The board subsequently developed a task force to identify space needs, and issued a request for proposals for 56,000 square feet. It received one bid, for the same building.

- the new lease arrangement is about 35,000 square feet and $572,000 more than in 2005. (The Department of Commerce's lease payments increased by about $100,000 per year.) We can't say whether Area 4 has leased more space than it needs. That's because some additional program "partners"—like the 20-employee Workforce Alliance Youth Program—have been moved into the new space, and some existing programs may have added employees or space to meet growing needs. Nonetheless, when we visited the Wichita One-Stop center we saw a significant amount of what appeared to be underutilized or open space. In addition, the needs assessments that were used to justify renting this much space generally included large or multiple conference rooms, copy centers, resource centers, training rooms, meeting rooms, etc., for each major program "partner." The One-Stop centers in Kansas City and Topeka lease 14,300 and about 11,200, respectively.

The Department was using income it got from subleasing two buildings in Local Area 5 for other purposes, rather than to offset the costs it charged to federal workforce programs. As Area 5's administrative entity, the Department provides space in two buildings in Pittsburg—one serves as the Area's administrative center, the other as its One-Stop center. The Department uses workforce development moneys—including Workforce Investment Act funds—to pay all rent and operating costs for the One-Stop center, and operating costs, such as utilities, for the administrative center, which the Department owns.

During our reviews of Local Area 5's expenditures, we noted the Department was doing the following:

- subleasing parts of both buildings to other State agencies. From September 2004 through May 2005, it subleased 363 square feet in the administrative building to the Department of Labor for $259 a month. And since late 2005, it has subleased just over 400 square feet in the One-Stop center to the Departments of Revenue and Administration for a total of $480 per month.

- depositing these sublease rents into a separate account to finance activities that are unrelated to Area 5's federal workforce development programs. We calculated that, as of June 2006, about $8,000 had been deposited into a separate account the Department maintains. Funds in that account were used for such things as making bond payments on a building in Topeka, covering the cost of parking spaces in the garage at the Curtis State Office Building in Topeka, and paying for retirement receptions for Department employees. We think rental income should be used to offset the rent and operating costs charged to Area 5's federal workforce development programs.

Department officials told us this arrangement had been established by a former chief financial officer who no longer works for the Department. In August 2006, Department officials provided documentation showing they had returned a total of about $20,500 in rent income to Local Areas 5 and 3. Of that amount, about $7,300 was returned to Local Area 5 for rent income the Department had collected for one of the two buildings described above. In addition, $9,600 was returned to Area 5 for rent collected on a building in Independence, and about $3,600 was returned to Local 3 for rent income the Department had collected from the Area's Leavenworth workforce center.

Local Area 4 (Wichita) allows more money to be spent for individual training accounts than the other local areas, and in one case exceeded its own guidelines for authorized spending on an individual person. As part of the Workforce Investment Act, qualified job seekers can get financial assistance for tuition and books through something called an individual training account. We noted the following issues related to Local Area 4's individual training accounts:

- Its standard limit for individual training accounts is $2,000 to $5,000 higher than limits in other local areas. Job seekers in Local Areas 1 and 2 are limited to $3,000 per year or $6,000 over a two-year period for books and tuition unless the local board gives a special approval to exceed that amount. Local Areas 3 and 5 limit these accounts to $3,000, and their boards must approve any amount over that limit. In September 2004, the local board in Area 4 raised its limit from $6,000 to $8,000 per person. Area officials told us they did that because tuition costs tended to be higher in the Wichita area.

- The training amount established for one job seeker was more than the amount normally allowed. We reviewed files for a total of 10 job seekers who were authorized to receive tuition and book assistance. In 2 cases, more than $8,000 in assistance was paid. For these job seekers the local board had approved an exception to the assistance limit. However, records show one other individual was approved for an individual training account of $13,267, without any record that the board had approved this amount. Officials told us their subcontractor had entered this figure into the computer in error. They subsequently reduced the authorized limit for this individual to $8,000. As of October 2005–the date this job seeker was last enrolled–about $5,800 in individual training account assistance had been paid.

A U.S. Department of Labor review in September 2004 also took exception to the Area's policy that allowed the director to waive specified time and expenditure limits on individual training accounts. The report said, "this has resulted in numerous instances where expenditures for individual training have been excessive, and in the provision of unneeded educational services."

Routine Information About Workforce Investment Act Activities Is Distributed Mostly to Department and Area Staff

Workforce Investment Act regulations require reports on spending and performance.

- Spending reports the Department compiles on a monthly, quarterly, and annual basis include information about total Workforce Investment Act moneys originally allocated to each local area and the State for administration and for program activities, total amounts the local areas and the State spent in each category, and unspent fund balances.
- Performance reports include whether the local area and the State are meeting performance goals, total enrollments, and the numbers of enrollees counted in each performance measure, for example, the number of youth who completed their education during the time period. Performance reports are available at all times on-line to those with approved access and are distributed after the end of each quarter.

We asked Department of Commerce officials which reports have been routinely distributed directly to the Legislature, local workforce investment boards, and staff in the local offices. Their responses are summarized below.

recipient	expenditure reports	performance reports
Legislature	not provided	not provided
Local workforce investment boards	board employees in Areas 1, 2, 3, 4 (Area 5 doesn't have board employees)	quarterly report is sent to local area administrators; area executive directors and/or staff have on-line access
Staff in local offices	to Commerce employees in Areas 3 and 5	available on-line to case managers, supervisors, directors

Three of the Five Local Workforce Investment Areas Have Had Difficulty Meeting Performance Measures

The State negotiates with the U.S. Department of Labor on performance goals for the Act's adult, dislocated worker, and youth programs. Most goals seek to measure how well job seekers did after receiving services. Goals also exist for how satisfied job seekers and employers are with the services they received. In total, there are 17 performance measures.

Federal officials require states to achieve only 80% of a goal. For example, if the goal is for job seekers to earn an average of $3,000 more after they receive services compared with before, that goal will be met if job seekers earn an average of just $2,400 more. ***Figure 2-6*** shows program performance goals that one or more local areas in Kansas have not met over the past three years.

Figure 2-6
Area and State Performance on Workforce Investment Act Goals

Performance Measure and its general definition	Local Area **not** meeting the goal		
	FY2004	FY2005	FY2006– as of 6/5/06
Adult Program			
entered employment rate - this measures how many of the people who were unemployed before getting services got jobs after receiving services	4		
earnings change - earnings after receiving services compared with earnings before receiving services	1, 3, 4, KS	3	3
employment and credential rate -the percentage of adults who completed training services who were employed and received a diploma, degree, or industry-recognized training certificate within nine months after they'd received services	3, 4		
Dislocated Worker Program			
earnings change (see definition under Adult)		4	4
employment and credential rate (see definition under Adult)	4		
Youth Program			
diploma or equivalent rate (youth 14-18 only) - the percent of youth who were no longer in secondary school who completed a diploma or equivalent after receiving services	3, 4		3
skill attainment rate (youth 14-18 only) - measures youths' progress toward goals in three areas: basic skills (reading, math computation), work readiness skills (career planning, job search), and occupational skills (actual tasks and technical functions required at a job)			5
entered employment rate (youth 19-21 only) (see definition under Adult)	3, 4, KS	3	
credential rate (youth 19-21 only) – the percentage who completed services and received a diploma, degree, or industry-recognized training certificate within nine months after they'd finished receiving services	3, 4, KS	3, 4, KS	3
employment retention rate (youth 19-21 only) the percentage of youth who still had a job nine months after completing their services	1		
earnings change (youth 19-21 only) (see definition under Adult)	1		2, 3, 4, 5, KS

"KS" refers to the State as a whole
Sources: Performance reports from the Department of Commerce, definitions from the U.S. Department of Labor

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As the figure shows, Local Areas 3 (Kansas City) and 4 (Wichita) historically have had the most trouble meeting their performance goals. During the first 11 months of 2006, Area 3 (Kansas City) and Area 5 (southeast Kansas) also have had difficulty meeting goals related to their youth programs. We also noted that all areas had achieved a satisfactory participant and employer satisfaction rate in each of the previous two years.

According to Department officials, although Kansas failed the goal for the "employment and credential rate" for youth two years in a row, it won't face losing up to 5% of its Workforce Investment Act funds for youth programs because the U.S. Department of Labor has allowed an exception. Instead, the U.S. Department of Labor has required the Department of Commerce to develop a corrective action plan to help Local Areas 3 and 4 meet their performance goals, and to incorporate that plan into the State's current two-year Strategic Plan.

Conclusion Spending slightly more than $2 million out of nearly $17 million in Workforce Investment Act money on administrative costs such as salaries, professional services, and travel may seem high to some, but that amount falls within the federal limits for administrative spending. It also has to be considered in light of the fairly top-heavy administrative structure required by the Act. Of equal importance is the way processes and procedures are set up to safeguard program funds and ensure they are being spent appropriately. Over the years, federal and State monitoring reviews have identified such things as open-ended contracts, inadequate fiscal procedures, and a lack of supporting documentation. While "control" procedures may represent some of the most mundane aspects of any program, they provide the foundation for ensuring that the program is accountable to the public and is using its resources wisely, effectively, and efficiently.

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Question 3: What Types of Contracts Are in Place To Provide Training or Job-Assistance Services, What Are Their Terms, and Have They Been Awarded Competitively?

ANSWER IN BRIEF: *At the time of our audit, the Department of Commerce had 14 active service contracts totaling about $1 million. The contracts were funded with Workforce Investment Act money and were for such things as consultants and customized training for Department employees. Nine were awarded on a sole-source basis. For most of those sole-source contracts the Department hadn't adequately documented the research it undertook to ensure there were no other vendors who could supply those services. In addition, one $234,000 contract was sole-sourced without the Division of Purchases approval and it likely should have been competitively bid.*

We reviewed 31 active contracts at the local area level. These contacts were with entities to provide case-management services or programs to youth, adults, and dislocated workers—the job seekers targeted by the Workforce Investment Act. The contracts ranged from $9,000 to $1.3 million, and all but one was competitively awarded. In addition, one local area is operating with expired contracts, and one inappropriately paid a contractor $87,000 in additional incentive payments. For six contracts at the local area level, a member of the local workforce investment board had or currently has an interest in the entity the board has contracted with, but those board members didn't vote on these contracts. These and related findings are discussed in more detail in the sections that follow.

State Purchasing Laws and the Workforce Investment Act Generally Call for Contracts To Be Competitively Bid

In general, State laws and the Workforce Investment Act require contracts and purchases to be based on competitive bids. Each allow exceptions to this requirement, but only if there's a lack of competition, or when only one vendor can provide the service or product. Specifically, State purchasing laws allow the Director of Purchases to make exceptions when a State agency can show that only one vendor can provide a service or product, or when an emergency situation requires immediate delivery of services, or the like.

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As of May 2006, the Department of Commerce Had 14 Service Contracts Totaling About $1 Million That Were Funded with Workforce Investment Act Moneys

The Department is the State-level recipient of Workforce Investment Act moneys. It has used these moneys to contract for various things, such as hiring consultants to gather information on best practices for implementing the Act, and developing customized training for Department employees. The service contracts ranged in size from $1,600 to about $234,000. ***Figure 3-1*** summarizes the terms of the contracts.

As the figure shows, two of the 14 contracts weren't required to be competitively bid. Of the remaining 12, three were competitively bid, and nine were entered into without competition. Although there are exceptions to the law, it's generally expected that contracts awarded with public moneys will be competitively bid to ensure that services are provided at a reasonable cost.
Because 75% of these contracts were issued on a sole-source basis, we reviewed those contracts in greater detail.

The Division of Purchases requires agencies who are requesting to issue sole-source contracts to submit the following information:

- why the proposed vendor is uniquely qualified to provide the service
- what research was done to ensure that no other competition exists
- whether the agency has contracted with that vendor during the previous 12 months

Division of Purchases officials told us such efforts could include contacting knowledgeable people such as trade associations, conducting Internet searches, and the like. The documentation we reviewed for these nine contracts showed the following:

- **For several contracts, the Department didn't show that it had taken any steps to identify whether other competition existed.** The forms Department officials submitted to the Division to justify awarding these contracts on a sole-source basis generally only reiterated why they thought the person was uniquely qualified to provide the service, not what they had done to ensure no other competition existed. For example, in one case the Department's description of the research it had done to ensure that no other competition existed was, "Due to the nature of the work to be completed and [the vendor's] experience, it is thought that [the vendor] is uniquely capable of providing these services." For another contract, that portion of the form said "Because of the recent experience and working knowledge of the workforce delivery system in Kansas, no other vendor is qualified to provide these services." The Division of Purchases approved all but one of these contracts as sole-source.

- **The Department didn't submit one sole-source contract to the Division of Purchases, as required.** That contract was for retraining services to help farm workers transition from farm to non-farm employment. For several years these services were funded

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using a grant from the U.S. Department of Labor. Starting July 1, 2005, the Department used Workforce Investment Act funds and awarded a contract to Kansas Legal Services without a competitive bid process as required by the Workforce Investment Act. When we asked the Director of Purchases whether he would have allowed this contract to be awarded without a competitive bid process, he said he would have preferred the Department to have at least attempted a bid process, even though it may not have resulted in bids. The contract we reviewed expired June 30, 2006 and during the audit the Department signed documents exending it to June 2007.

Figure 3-1
Current Contracts the Department of Commerce Has That Are Related to Providing Services Through the Workforce Investment Act

Contractor and Description of Service	Length of Contract	Awarded Competitively?
State-level service contracts held by the Department of Commerce		
Kansas Legal Services, $234,204: Assist Kansas farmers and ranchers in transition from farm to non-farm employment.	1 year	No
Richard K. Gsottschneider Associates, $218,000: Services related to the Base Realignment And Closure (BRAC) in Kansas. Funded through Workforce Investment Act National Emergency Grants, under Dislocated Worker funding stream.	6 months	Yes
Kansas Department of Labor, $132,459: Administration and delivery of the One Stop/Labor Market Information Grant. $132,459 not specified in contract, but was the amount spent during FY 2005.	on going contract	Not required
Heartland Works, Inc., $160,000: Provide administrative, technical, and training services to Department of Commerce and One Stop centers in Areas 1, 3, 4, and 5. The Department cancelled this 2-year contract 16 months later, after spending $126,264.	2 years	No
Callahan Creek, $2,647: The firm designed Workforce Center signs, spending $2,647 in Workforce Investment Act moneys in FY 2005.	3 years	Not required
John Ambrust, $98,000: Assist with expansion of Ft. Riley and closing of Parsons military bases by coordinating with local areas on a plan of action. Activity was funded with national emergency grants that flowed through Workforce Investment Act funding.	11 months	No
EEK Human Resources Consulting, $56,080: Provide consulting services to America's Job Link Alliance-Technical Support (AJLA-TS).	1 year	No
R. Michael O'Hara, $65,000: Provide consultation on administering Workforce Investment Act programming through an ongoing contract was with a retired Kansas Department of Human Resources employee. Contracted periods varied and the latest addendum provided for a 3 month contract expiring March 31, 2005.	3 months	No
Sharon Parry, $29,000: Train and assist Department employees to help implement Department's Business Outreach Plan	8 months	Yes
Team Tech, Inc., $16,800: Provide facilitation and consultation services in reviewing Workforce Investment Act performance Statewide in conjunction with Workforce Network board and local area boards. This is a third addendum to the original six and a half month contract.	7 months	No
@ Work Solutions, $16,500: Review, identify, and implement a national "Best Practices Related To Improving the Workforce Investment Act System" throughout Kansas.	9 months	No
Contemporary Consulting, $15,500: Lead team-building sessions to prepare regional chief elected officials for the increase in populations due to the Base Realignment and Closure process.	1 month	No
Ken Breeden and Associates, $10,000: Custom industrial workforce development training to assist Kansas in implementing a direct services training model.	4 months	No
Yulan Studios Inc., $5,000: Build a One-Stop website for the Junction City community. Associated with the Base Realignment And Closure.	1 month	Yes
Total, all contracts: $1,059,190		
Source: LPA analysis of contracts provided by Kansas Department of Commerce.		

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As of May 2006, the Five Local Workforce Investment Areas Had 31 Service Contracts Totaling About $4.6 Million that Were Funded with Workforce Investment Act Moneys

The majority of those contracts were for things like case management for job seekers, and providing training services to adults, youth, and dislocated workers. ***Figure 3-2*** summarizes the amounts and terms of those contracts.

All but one of the contracts we reviewed in local areas was competitively bid, but we found a few problems with those that were bid. Those problems are summarized below.

- **Local Area 5 has a contract with the Department of Commerce that doesn't clearly spell out how much the Department will be paid.** Department officials told us they inherited the administrative entity role from the Department of Human Resources when programs were transferred in mid-2004. Our review showed that there isn't a set fee paid to the Department. As noted in Question 1, because the Department's State monitoring role conflicts with its role as administrative entity at the local level, Department officials have considered phasing out its role at the local level.

- **Local Area 4 (Wichita) pays incentives to a contractor if performance measures are met—something the contractor should already do without incentives.** The contract with Arbor Education and Training is for slightly more than $1.3 million, and calls for Arbor to provide services—on a cost-reimbursement basis—to adult and dislocated workers. Since 2004, Local Area 4 has paid Arbor $87,000 over-and-above the cost reimbursements called for in the contract. During a 2005 review, the U.S. Department of Labor took exception to these types of incentive payments. The review found that performance-based contracts should place some of the contractors' fixed costs at risk if the contractor doesn't meet performance measures, then some fixed costs aren't reimbursed. Local Area 4's contract with Arbor allowed reimbursement for all fixed costs, regardless of whether performance measures were met. In the initial contract with Arbor, these payments were called a "profit." Local Area officials told us that since that federal review they have fixed the problem by changing the name of the incentive payment from a 'profit' to a 'performance payment." We think the problem still exists because Arbor has nothing to lose by not meeting performance standards.

- **Eight out of 10 contracts in Local Area 1 (western Kansas) have been expired since June 2005.** The contracts that have expired were with several community colleges, a school district, and Kansas Legal Services to provide case management services to adult, dislocated workers, and disadvantaged youth. Board minutes show that Local Area 1's workforce investment board had approved the renewal of these contracts, but members didn't sign them. (These contracts have since been signed.)

- **Local Area 5 (southeast Kansas) didn't award a contract for all youth services until very recently.** The Workforce Investment Act requires local areas to contract for services provided to disadvantaged youth. The Department of Commerce provides administrative services on behalf of Local Area 5's workforce

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Figure 3-2
Current Contracts Local Areas Have That Are Related to Providing Services Through the Workforce Investment Act

Contractor and Description of Service	Length of Contract	Awarded Competitively?
Area 1 contracts, Total awarded: $1,169,222 (a)		
Kansas Legal Services, $70,013: Youth case-management services in Salina, Great Bend, and Hays.	expired	Yes
Northwest Kansas Education Service Center, $41,240: Youth case management services in Colby and Goodland.	expired	Yes
TECH, Inc., $46,373: Youth case-management services at McPherson, Hutchinson, and Newton	expired	Yes
USD 273, $12,000: Youth case management services in Beloit Juvenile Correctional Facility.	expired	Yes
25th Juvenile District Youth Services, $38,450: Youth case-management services in Garden City, Dodge City, and Liberal.	expired	Yes
Kansas Legal Services, $98,986: Adult and Dislocated Worker case- management services in Great Bend, Salina, Colby, and Hays region and Great Bend One-Stop operator.	expired	Yes
Garden City Community College, $77,528: Adult and Dislocated Worker case-management services in Garden City, Dodge City, and Liberal region and Garden City One-Stop operator.	expired	Yes
Hutchinson Community College, $95,424: Adult and Dislocated Worker case-management services in Hutchinson, McPherson, and Newton region and Hutchinson One-Stop operator.	expired	Yes
Barton County Community College, $670,208: Administrative entity operations for the Workforce Investment Act programs in Local Area 1.	2 years	Yes
WESTCO Management Inc, $19,000: Client services paymaster for Local Area I.	1 year	Yes
Area 2 contracts, Total awarded: $418,666		
USD 501 - Topeka, $84,845: Youth case management	1 year	Yes
Kansas State School for the Blind, $6,461: Youth case management	1 year	Yes
USD 475 - Geary County, $30,509: Youth case management	1 year	Yes
USD 380 - Vermillion, $24,343: Youth case management	1 year	Yes
Happy Hearts, $43,495: Youth case management	1 year	Yes
Van Go Mobile Arts, Inc., $81,062: Youth case management	1 year	Yes
USD 383 - Manhattan, $52,506: Youth case management	1 year	Yes
USD 364 - Marshall, $27,252: Youth case management	1 year	Yes
USD 345 - Seaman, $14,598: Youth case management	1 year	Yes
Kansas Legal Services, $53,595: Youth case management	1 year	Yes
Area 3 contracts, Total awarded: $905,620		
Job Readiness Training, Inc., $850,000: Youth case management	2 years	Yes
Southeast Kansas Area Agency on Aging, Inc., $55,620: Adult and Dislocated Worker program provider	10 months	Yes
CBIZ, $3.93 to $5.37 per transaction: Paymaster services for Local Area 3	1 year	Yes
Area 4 contracts, Total awarded: $2,037,453		
Arbor, $1,338,877: Adult and Dislocated Worker programs	1 year	Yes
Arbor, $126,527: Youth case management	5 months	Yes
St. Francis Academy, $28,390: Youth case management	5 months	Yes
Urban League of the Mid Plains, $208,672: Youth case management	5 months	Yes
United Methodist Youthville, $76,737: Youth case management	5 months	Yes
Goodwill Industries, $229,148: Youth case management	5 months	Yes
Wichita Children's Home, $29,102: Youth case management	5 months	Yes
Area 5 contracts		
CBIZ, $3.93 to $5.37 per transaction: Paymaster services for Local Area 5	1 year	Yes
Department of Commerce, for no set amount: Administrative entity operations for the Workforce Investment Act programs in Local Area 5.	1 year	No

Source: LPA analysis of contracts provided by local area administrators.
(a) Contracts shown as expired have since been signed.

investment board, and since July 2004, Department staff also provide direct services to each of the populations targeted by the Workforce Investment Act, including youth services. Department officials told us that until recently, they didn't realize the Act required contracting for all youth services, and have since awarded a contract to Southeast Kansas Education Service Center.

In Some Cases, Local Board Members Had or Have Interests In Entities Contracting With the Board, but Those Board Members Didn't Vote On the Contracts

During our review of contracts, we looked for situations that could represent potential or perceived conflicts of interest where local workforce investment board members or employees were in a position to benefit financially from contracts the board entered into. For example, board members or employees could benefit financially if the board contracted with a business they owned or worked for.

The Workforce Investment Act prohibits local area board members from voting on matters that they or the entity they represent may benefit from.

Our review showed that no board employees had an interest in the entities their boards contracted with. In six contracts we reviewed, however, board members either had or currently have an interest in an entity that has the contract. Those are summarized in ***Figure 3-3.***

Figure 3-3
List of Contracts Where We Saw the Potential For a Conflict of Interest

Contract, Amount, Description, and Local Area	Person with interest in contract	Board member's interest in the contracted entity	Is this a real conflict?
Hutchinson Community College, $197,000 to provide services to adult and dislocated workers, as well as to be the One-Stop operator for Local Area 1	Ed Berger, Area 1 Workforce Board	President, Hutchinson Community College	**No.** Mr. Berger wasn't on the RFP committee that awarded the contract.
Westco Management Inc., $19,000 to provide paymaster services for Local Area 1.	Glen Fondable, Area 1 Workforce Board	President, Westco Management, Inc.	**No.** Mr. Fondoble wasn't a board member when the contract was awarded
Barton County Community College, $670,000 to carry out administrative duties for Local Area 1	Deb Scheibler Area 1 Workforce Board	Program Director, Barton County Community College	**No.** Ms. Scheibler wasn't a board member when the contract was awarded
Northwest Education Services Center, $47,000 to provide youth services for Local Area 1.	Judy Taylor, Area 1 Youth Council	Employee, Northwest Education Services Center	**No.** Ms. Taylor wasn't on the committee recommending the contract.
USD 501,$72,000 to provide youth services for Local Area 2.	Larry Guth, Area 2 Workforce Board	Employee, USD 501	**No.** Mr. Guth abstained from voting on the contract.
Arbor, Inc.,$1.8 million to provide services to youth, adult, and dislocated workers in Local Area 4.	Gary Rudzianis, Area 4 Workforce Board	Employee, Arbor	**No.** Mr. Rudizianis was absent when the contract was awarded.

Source: LPA analysis of contract held by local workforce investment areas.

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Our review of the minutes for the meetings when these contracts were approved showed that none of the board members who had or currently have an interest in the contracted entity voted on these contract awards.

Because the Workforce Investment Act requires certain community members to be on local workforce investment boards—including those who provide training or other workforce development services—the potential for conflicts of interest will be difficult to avoid altogether.

Conclusion

Overall, we found relatively few problems with the way local areas were handling their contracts, but the Department does need to improve its process for awarding contracts—by seeking competitive bids or by providing justification for sole-source contracting when competition doesn't exist. Had any of its sole-source contracts been competitively bid, there's no way to know if other vendors would have bid, if they would have been as qualified, or if they would have submitted lower bids. But that's always the case. The State's process is intended to be as open and competitive as possible to help ensure that tax dollars are used effectively.

Recommendations

1. To ensure that the contracting process for services provided with Workforce Investment Act moneys is open to competition and complies with State and federal requirements, the Department of Commerce should do the following:

   a. work to reduce the number of contracts it awards on a sole-source basis.

   b. clearly document the steps it takes to look for other vendors who potentially could provide the service, and what the results of those steps were.

   c. submit all contracts to be awarded on a sole-source basis to the Division of Purchases for approval.

2. To ensure that all local area contracts comply with the provisions of the Workforce Investment Act, officials in Local Area 4 should review the performance payment provisions of their contract with Arbor Education and Training with officials from the U.S. Department of Labor to determine whether those provisions qualify as performance payments that would be acceptable under the Act.

Question 4: What Other Programs in Kansas Meet the Definition of Workforce Development Adopted by the Joint Committee on Economic Development In 2005, and What Level of Coordination Exists for Those Programs?

ANSWER IN BRIEF: *The Joint Committee on Economic Development defines workforce development as a partnership between the State and business to develop employment opportunities. We identified 35 State and federally funded workforce development programs that meet that definition, with most programs managed by four State agencies. Nearly $129 million was available for these programs during 2006, and about 212,000 potential employees and nearly 9,000 employers were served in 2005. We also identified about 700 business partnerships with the State's post-secondary institutions, and multiple certificate or associate in applied science degree programs and short courses offered by educational institutions that appeared to fit the definition.*

Despite attempts to coordinate workforce programs in Kansas, on the whole they've not been well coordinated. For example, little has been done to ensure that programs are coordinated, and no formal coordination has been set up with workforce programs that stayed in other agencies after the Executive Reorganization. Local area workforce investment boards also have been slow to create comprehensive One-Stop centers, but housing program partners in a single location won't guarantee that coordination takes place. A 2005 study found that most states have tried to coordinate their workforce programs—most commonly by linking together two of the largest programs—Temporary Assistance to Needy Families and Workforce Investment Act. At least three states have consolidated all workforce programs under a single agency, but North Dakota later reversed that decision.

The Joint Committee on Economic Development Adopted a Definition of Workforce Development In December 2005

During the 2005 legislative interim, the Committee heard testimony from a number of people and agencies involved in the workforce development system in Kansas. In December 2005, the Committee adopted the following definition for workforce development:

Workforce Development is a partnership between the State and business to develop employment opportunities with meaningful and sustainable income to Kansans and providing programs that assist business through specialized training.

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Many Programs and Specialized Training Courses Appear To Fit The Joint Committee's Definition of Workforce Development

We identified three basic categories of programs that seem to fit the definition of workforce development the Committee crafted:

- **State and federally funded workforce development programs,** primarily operated by a State agency
- **Training partnerships** between businesses and educational institutions
- **Educational coursework**, such as specialized certifications, some associate degree programs, and short courses aimed at qualifying a person for a specific type of job without having to fulfill additional general education requirements

Because the information about training partnerships and coursework is voluminous, it is available in a separate volume, and can be obtained from Legislative Post Audit. Copies will be provided to the Department of Commerce, local workforce investment boards, and appropriate legislative committees.

We identified 35 State and federally funded workforce development programs. Programs managed by State agencies are summarized in the first part of ***Figure 4-1*** starting on the next page. The four agencies involved in managing most of these programs are the Departments of Commerce, Corrections, and Social and Rehabilitation Services (SRS), and the Kansas Housing Resources Corporation. The largest programs are the IMPACT Program and the Workforce Investment Act, both operated by the Department of Commerce, and the Vocational Rehabilitation and Temporary Assistance to Needy Families Programs operated by SRS.

The bottom part of ***Figure 4-1*** shows programs that fit the Joint Committee's definition of workforce development, but that aren't administered by a State-level agency. These four programs are totally federally funded. Finally, although the unemployment insurance program also is required to provide services in One-Stop centers, we excluded it from the inventory of workforce programs because it isn't a workforce development program.

As ***Figure 4-1*** shows, nearly \$129 million in funding was available for these workforce development programs for fiscal year 2006, and about 212,000 people and nearly 9,000 businesses took advantage of the services provided in fiscal year 2005. Nearly 79% of this funding came from the federal government.

Nearly 680 partnerships between businesses and education institutions also fit the Joint Committee's definition of workforce development. These are agreements to create customized training

Figure 4-1
Ongoing Workforce Development Programs Administered by State Agencies and Other Programs

Program Name and Description	Funding for Fiscal Year 2006 State	Funding for Fiscal Year 2006 Federal	Funding for Fiscal Year 2006 Other	Funding for Fiscal Year 2006 Total	Employers 7/1/04 - 6/30/05	People 7/1/04 - 6/30/05
Ongoing Programs Administered By State Agencies						
Department of Commerce						
America's Service Locator Website: Helps individuals obtain information about availability of services, including finding a job, planning a career, locating training, and helping employers recruit employees.		(a)				(a)
America's Workforce Network Toll-free Help-line: Provides callers information about employment and training programs and where to access them. 1-877-US2-JOBS		(a)				(a)
Disabled Veterans Outreach Program (DVOP): Provides intensive employment services to disabled and other eligible veterans who are economically or educationally disadvantaged.		$911,000		$911,000		4,425
Federal Bonding Program: Allows employers to apply for fidelity bonding insurance to indemnify business for loss of money/property sustained through dishonest acts of employees.		(b)			5	
Foreign Labor Certification: Requires employers to provide documentation that they recruited for qualified, able and available U.S. workers before seeking foreign workers for jobs.		$94,983		$94,983	375 (c)	
Investment in Major Projects and Comprehensive Training (IMPACT): Provides customized training for new and incumbent employees, and thus works as an economic development incentive to attract new companies to Kansas.	$11,645,849			$11,645,849	9	7,186
Kansas Industrial Retraining (KIR) Program: Assists employees who may be displaced because of obsolete or inadequate job skills and knowledge.	$1,500,000			$1,500,000	36	2,517
Kansas Industrial Training (KIT) Program: Provides company-specific training for new employees of a Kansas Basic Industry.	$1,500,000			$1,500,000	55	2,294
Local Veterans Employment Representative (LVER) Program: Encourages employers to hire veterans and generally assist veterans in gaining and retaining employment.		$696,000		$696,000		964
Migrant & Seasonal Farmworkers (MSFW): Offers migrant and seasonal farmworkers the full range of employment services, benefits and protections. This program is funded through the Wagner-Peyser Act.		(d)				110 (d)
Neighborhood Improvement Youth Employment Act (NIYEA): Provides employment opportunities for youth by paying for labor and costs associated with repairing, maintaining and renovating community facilities. Funding comes from the Workforce Investment Act.		$100,000 (k)		$100,000		40
Older Kansans Employment Program (OKEP): Provides Kansans 55 and older with an employment placement service.	$239,430			$239,430		1,633
Re-employment Services Program: Increases quality and quantity of labor exchange services to unemployment insurance claimants. This program is funded through the Wagner-Peyser Act.		$406,720		$406,720		36,334
Registered Apprenticeship Program: Provides full-time employment with supervised and structured hands-on learning and related technical instruction. Funding comes from WIA and Wagner-Peyser.		$380,000 (e)		$380,000 (e)		1,811
Senior Community Service Employment Program (SCSEP): Provides low-income seniors age 55 and older with temporary subsidized employment to learn and upgrade skills through training.		$889,751		$889,751		172
Trade Adjustment Assistance (TAA): Assists employees in manufacturing industries whose jobs are lost as a result of imports and free trade agreements that shift employers production or sales.		$3,192,097		$3,192,097		633
Transition Assistance Program (TAP): Provides job search assistance and related services to men and women exiting the military during their transition into civilian life.		$41,000		$41,000		2,280
Wagner-Peyser Job Service Program: Matches individuals seeking employment with employers through a nationwide labor exchange program. Also funds the Registered Apprenticeship Program.		$6,619,274		$6,619,274	3,003	86,204
Wheat Harvest Program: Matches farmers, custom cutters, and farm laborers during harvest season through this employment service program. (Can access Wagner Peyser funding if needed.)	$32,294			$32,294		135
Workforce Investment Act - Adult Program: Provides employment and training services to help individuals find and qualify for employment.		$6,014,471		$6,014,471		1,682
Workforce Investment Act - Dislocated Workers Program: Provides services to individuals who have been laid off through no fault of their own, and are not expected to return to their previous employer.		$7,651,181		$7,651,181		1,478

Workforce Investment Act - Youth Program: Helps low-income youth with barriers to employment. Also funds the Neighborhood Improvement Youth Employment Act program.		$7,204,197 (k)		$7,204,197		2,412
Work Opportunity Tax Credits: Grants private-for-profit employers a federal income tax credit to hire workers from groups considered hard to employ (welfare recipients, high-risk youth, ex-felons, etc.)		$163,515		$163,515	5,271	
Department of Social and Rehabilitation Services						
Food Stamp Employment & Training Program (FS E&T): Assists Food Stamp Program members in gaining skills, training or experience to increase their ability to obtain regular employment.	$40,788	$719,371		$760,159		1,122
Temporary Assistance to Needy Families Program: Qualified recipients can receive job seeker services, job readiness services, training or technical skills, and transition services.		$12,356,133		$12,356,133		29,475
Vocational Rehabilitation Program: Provides services individualized to each person's disability, rehabilitation needs and vocational objectives to help them prepare for and become employed.	$7,285,211	$28,224,639	$88,879	$35,598,729		14,042
Department of Corrections						
Offender Education: Provides offenders the opportunity to acquire vocational and educational skills.	$2,530,846	$680,053		$3,210,899		2,400
Offender Workforce Development Specialist: Trains individuals to deliver specialized workforce development services to offenders who are incarcerated or on post-incarceration release.		$8,004		$8,004		32
Sedgwick County Reentry Program: Prepares 150 high-risk individuals for transition back into the community; addresses housing, employment, family reintegration and treatment. [New January 2006]	$550,000		$275,000	$825,000		0
Shawnee County Reentry Program: Assists offenders in job development, and provides employee bonding/tax incentives to businesses that hire ex-offenders.	$442,957			$442,957		60
Kansas Housing Resources Corporation						
Community Services Block Grant: Provides grants to organization that provide services to impoverished individuals, including help in becoming employed, making better use of income, and providing access to other community resources.		$318,469		$318,469		1,165 (f)
Total Funding and Participants (Ongoing Programs):	**$25,767,375**	**$76,290,858**	**$363,879**	**$102,422,112**	**8,754**	**200,496**
Other Workforce Development Programs (each are federally funded, but not managed by a State agency)						
Native American Programs: United Tribes of Kansas and Southeast Nebraska which provides vocational or liberal arts training, and work experience for youth. Also includes funding for the American Indian Council, which provides employment and training in 21 counties.		$392,752		$392,752		251
Adult Education and Literacy: Assists Kansans in extending learning, serving adults ages 16 and older who are in need of basic skills for the workforce.	$1,148,998	$3,565,886		$4,714,884		11,338 (g)
Carl Perkins Post-Secondary Vocational Education: Assists in the improvement of vocational education programs across the State. Funding for post-secondary goes to the Kansas Board of Regents.	$328,735	$7,049,282 (h)		$7,378,017(h)		(I)
Job Corps - Flint Hills Job Corps Center: Provides vocational training, basic education classes, and advanced training and college programs.		$13,742,500 (j)		$13,742,500 (j)		250
Total Funding (Other programs):	**$1,477,733**	**$24,750,420**		**$26,228,153**		**11,839**
TOTAL, includes Ongoing and Other Programs:	**$27,245,108**	**$101,041,278**	**$363,879**	**$128,650,265**	**8,754**	**212,335**

(a) Funded and maintained by the US Department of Labor. Kansas received funds to the Department initiate the nation-wide website, America's Service Locator. That initial grant was for $50,000 for 2001-2002. The America's Network Toll-free Help-line initial grant was for $125,000 for 2000-2002. Number of recipients access these services are not provided to the Kansas Department of Commerce from U.S. Department of Labor.
(b) There are no separate funds for this program. Funding comes from Wagner-Peyser grant, job placement services.
(c) This is an estimate of the number of recipients being served.
(d) Funding and recipient counts are included in Wagner-Peyser. This separate recipient count isn't included in the total for Ongoing Programs.
(e) Includes $100,000 from Workforce Investment Act State Set-Aside, and $280,000 from Wagner-Peyser. These funds aren't included in the total for Ongoing Programs.
(f) Includes participants enrolled to obtain a job or an increase in employment income, but excludes those who aren't enrolled and receive only employment support services.
(g) Participant count may be duplicated in other participant counts in this Figure.
(h) Funding included is only for Board of Regents, and doesn't include the amount given to the Kansas Department of Education. Funding is for Fiscal Year 2005.
(I) There are two awards for Perkins. The first is the Basic Grant Award–used to serve13,644 post-secondary students enrolled or completing Career and Technical Education Associate Degrees or Technical Certificates. The second is the Tech Prep Award–serving 39,477 secondary students and 12,786 post-secondary students participated in Tech Prep Activities. Some federal funds are awarded to secondary (high school) consortiums, thus not all funds are expended on post-secondary activity.
(j) Entities competitively bid for a contract to provide Job Corps Services–a two-year contract was recently awarded.
(k)NIYEA is currently funded with Workforce Investment Act set-aside funds. Here we report $7,204,197 funding WIA Youth Program because $100,000 of the total ($7,304,197) is reported in NIYEA.

Source: Data Collection Documents completed by program managers of ongoing State workforce development programs.

for various private or governmental entities—including businesses, cities, and local law enforcement. Examples of these training partnerships are described below.

Most of these business partnerships exist with the State's 19 community colleges, 6 technical colleges, and 4 technical schools, and we also found a number at universities. The partnerships are listed in the addendum to the report. Information provided by these institutions showed that about 24,000 people received customized training through partnerships during fiscal year 2005—the year for which the most complete data were available. In addition, information showed that about 80% of business partnerships had been initiated since July 1, 2004.

Businesses Enter Into a Wide Variety of Workforce Training Partnerships With Kansas Educational Institutions

During this audit, educational institutions identified nearly 700 instances where they had partnered with businesses to provide customized training. Below are several examples of these types of training partnerships.

- **Since 1995, Barton County Community College has had a business partnership with CPI Qualified Plan Consultants, Inc., a company involved in third-party pension administration.** The community college provides on-site training to the company's employees in subjects such as Pension Administration, Daily Valuation, Defined Contributions, and other courses to achieve the Qualified 401(k) Administrator certification as designated by the American Society of Pension Professionals and Actuaries. In fiscal year 2005, 80 individuals participated in this training.

- **Dodge City Community College provides English as a Second Language and welding classes to National Beef.** Welding training has been provided since August 2000, and is taught in eight week sessions to enhance maintenance workers' skills. In fiscal year 2005, 129 individuals participated in welding training. English as a Second language enables Spanish-speaking workers to be able to read, write, and understand English, which is pertinent for promotion in this line of work. The majority of classes are taught on-site to enable the plant to continue to operate, and 12 individuals have been served in this course in fiscal year 2005 (training began in January 2005).

- **Independence Community College provides basic instruction in aircraft manufacturing to newly hired employees of Cessna Aircraft Company.** The instruction includes sheet metal assembly, blueprint reading, and other aircraft-manufacturing related topics. This partnership began in June 2004, and 149 employees participated in the training in fiscal year 2005.

- **Wichita Area Technical College provides training to paraprofessionals employed by Wichita public schools.** Coursework is provided in the areas of Math, Reading, and Writing. In fiscal year 2005, 274 employees participated in these courses, to help them pass tests to become "highly qualified" instructional aids under the "No Child Left Behind" legislation.

Complete funding information wasn't readily available for these partnerships because educational institutions don't account for them separately. Institutions that could provide funding information showed that nearly $6 million was used to fund business partnerships during fiscal year 2005.

Educational coursework that fits the Committee's definition includes some associate degrees, certificate programs, and certain short or continuing education courses. Theoretically, an argument can be made that all educational course work helps to prepare students to join the workforce. For the purposes of this audit, however, our focus was on coursework that was aimed at qualifying a person for a specific type of job without having to fulfill additional general education requirements. The types of coursework we included are described on the next page.

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- ***Associate in Applied Science Degrees***—Examples include Information Networking Technology, Computer Networking, Paramedic Mobile Intensive Care Technician, and Registered Nurse. These occupational degrees usually require a minimum of 60 semester credit hours—including 15 credit hours of general education—and often can't be transferred to a university to qualify as coursework toward a bachelor's degree. During fiscal year 2005, about 2,300 such degrees were awarded.

- ***Certificate Programs***—These exist in many fields, including nursing, office administration, automotive body and collision repair, and auto service. For example, Neosho County Community College offers a Licensed Practical Nursing certificate through a one-year program. Certificate programs award either certificates of completion—which generally require 15 credit hours or less—or a Board of Regents-approved certificate—which generally requires more than 15 credit hours. During fiscal year 2005, Kansas educational institutions reported granting a total of 4,454 certificates.

- ***Short Courses and Certain Continuing Education Courses***—Short courses are offered for credit or non-credit, vary in length, and are shorter than a semester (i.e., 1-2 weekends, 12 weeks). Examples include certified medication aide, plumbing, and motorcycle maintenance. Continuing education courses are similar—they too can be offered for credit or non-credit, but are meant to help people remain current in their field. About 29,400 people participated in short or continuing education courses during fiscal year 2005. We didn't include all continuing education courses in our inventory of programs; only those reported by schools that appeared to us to fit the Joint Committee on Economic Development's definition of workforce development.

Despite Attempts To Coordinate Workforce Development Programs, In Kansas, On the Whole They've Not Been Well Coordinated

As ***Figure 4-2*** on the next page shows, certain adult job seekers can qualify to receive services through six programs administered by the Department of Commerce, two by SRS, and one through the Kansas Housing Resources Corporation. Generally, each of these programs offers job search assistance, job assessment services, and job readiness services. In addition, as discussed above, a significant number of other job training partnerships, certificate or associate in applied science (occupational) degree programs, and short courses are available in various parts of the State to meet existing training needs.

To minimize unnecessary duplication and maximize the amount of services that can be provided to job seekers and employers with the resources available, it's important that the State's workforce development efforts be well coordinated.

When it passed the Workforce Investment Act in 1998, Congress recognized that a lot of individual programs with separate funding sources were providing worker training or job development services, and that those services needed to be better coordinated.

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Figure 4-2

Services and Recipients for Ongoing State-Level Employment and Training Programs

	Services															Recipients											
	Job Seeker Services									Business Services			Both JS/B Services			Types of Recipients											
Program Name	Self Service	Assessment Services	Job Readiness	Literacy	Mentoring/Job Coaching	Credentials	Training or Technical Skills	Transition Services	Program-Specific Services	Company Specific Training	Outplacement Services	Other Business Services	Information Source	Job Match/Placement	Employment Support Services	Adult	Disabled	Dislocated Workers	Minorities	Offenders	Senior (ages 55+)	Veterans	Youth (ages 14-18)	Older Youth (ages 19-21)	Income-based	Employers or Businesses	Other
Department of Commerce																											
America's Service Locator Website	X												X			Anyone can access the website. All recipients.											
America's Workforce Network Toll-free Help-line	X												X			Anyone can access the website. All recipients.											
Disabled Veterans Outreach Program	X	X	X				X	X					X	X	X		X					X					X
Federal Bonding Program									X			X														X	
Foreign Labor Certification													X	X												X	
Investment in Major Projects and Comprehensive Training							X			X		X	X		X											X	X
Kansas Industrial Retraining Program										X																X	
Kansas Industrial Training Program										X																X	
Local Veterans Employment Representative Program	X	X	X			X	X	X	X		X	X	X	X	X		X					X					X
Migrant & Seasonal Farmworker Program	X	X	X									X	X	X	X	X	X	X	X		X	X	X	X		X	X
Neighborhood Improvement Youth Employment Act (Part of WIA)			X		X		X		X														X				
Older Kansans Employment Program	X	X	X						X												X						
Re-employment Services Program	X	X	X									X	X	X	X	X	X	X	X		X	X	X	X		X	X
Registered Apprenticeship Program (Part of WP and WIA)						X	X		X	X			X	X		X					X		X	X			X
Senior Community Service Employment Program			X						X				X	X							X						
Trade Adjustment Assistance	X	X	X	X		X	X	X	X				X	X	X	X	X	X	X	X	X	X		X			
Transition Assistance Program		X						X	X				X									X					
Wagner-Peyser Job Service Program	X	X	X									X	X	X	X	X	X	X	X		X	X	X	X		X	X
Wheat Harvest Program	X					X							X	X													X
Workforce Investment Act - Adult Program	X	X	X	X	X	X	X	X			X		X	X	X	X											
Workforce Investment Act - Dislocated Worker Program	X	X	X		X	X	X	X			X		X		X			X									
Workforce Investment Act - Youth Program	X	X	X	X	X		X						X		X								X	X			
Work Opportunity Tax Credits Program												X														X	
Department of Corrections																											
Offender Education Program		X	X	X		X	X	X			X		X	X	X	X	X			X	X		X	X			
Offender Workforce Development Specialist Program	X	X	X	X	X	X	X	X			X	X	X	X	X					X							
Sedgwick County Reentry Program (a)	X	X	X	X	X	X	X	X			X	X		X	X				X	X				X			
Shawnee County Reentry Program		X	X		X							X		X	X	X				X							
Department of Social and Rehabilitation Services																											
Food Stamp Employment & Training Program	X	X	X	X	X	X	X						X		X	X	X										X
Temporary Assistance to Needy Families - Employment Services	X	X	X	X	X	X	X	X	X				X		X	X											
Vocational Rehabilitation Program	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X		X		X	X	X	X			X
Kansas Housing Resources Corporation																											
Community Services Block Grant	X	X	X	X	X	X	X	X					X		X	X	X	X	X	X	X	X	X	X	X	X	

Source: Data Collection Documents completed by program managers of ongoing State workforce development programs. (a) Program is new; services either are or will be offered.

As described earlier in this report, the Act included several major requirements aimed at fostering greater coordination and cooperation among the various programs.

At the State and local levels, the following entities have primary responsibility for coordinating workforce development programs and services in Kansas:

- **the Workforce Network of Kansas**. The Workforce Investment Act states that this advisory board is responsible for assisting the Governor in developing "linkages in order to assure coordination and non-duplication among the programs and activities" carried out by One-Stop partners, including, as necessary, addressing any impasse situations in the development of the local memorandum of understanding. It also requires the board to assist in developing a State Plan that includes a description of the procedures the State will take to assure coordination of—and avoid duplication among—programs.

- **the Department of Commerce**, which administers 23 of the 35 workforce development programs shown in ***Figure 4-1,*** provides staff support and financial resources for the Workforce Network board, receives and distributes all the grant funds under the Act, and monitors and provides technical assistance to local workforce investment areas.

- **local workforce investment boards**, which have oversight responsibility for the local workforce system, and which are responsible for developing memoranda of understanding with One-Stop partners that cover program services, shared costs, funding sources, referral procedures between and among partners, and the like. These boards also are responsible for selecting One-Stop operators, whose responsibilities generally include coordinating the provision of services within a One-Stop center.

These entities have taken a number of steps related to coordinating workforce development programs in Kansas. Among them:

- The State Plan developed by the Workforce Network of Kansas board discusses the steps needed to coordinate programs and avoid duplication, as required by the Act. According to the Plan, the board would be an "advisory group with clear and distinct responsibilities for ensuring collaboration among all One-Stop partners. The State board carries out the Governor's expectations to ensure continued collaboration among all State and local agencies involved in the workforce development system." The Plan also states that putting the principal One-Stop partners under the authority of the Department of Commerce would help integrate them.

- The Department of Commerce created an initiative called "Kansas 1st" to integrate workforce development services with existing business services. According to Department officials, the idea behind "Kansas 1st"—which was implemented July 1, 2004—was to coordinate the "supply and demand" sides of employment. According to Department officials, a key objective of "Kansas 1st" was to facilitate the delivery of "Direct Training" to companies through Regents' institutions. Officials told us that before "Kansas 1st" was created, the majority of IMPACT, KIT, and KIR training funds were used by companies to purchase training from vendors other than the Regents' institutions.

At the time the "Kansas 1st" initiative was implemented, all Department of Commerce employees working with employment and training programs and newly-transferred employees from the Department of Human Resources were referred to as "Kansas 1st" employees.

The latest State plan, which covers fiscal years 2006 and 2007, also showed that the Department planned to coordinate with SRS and the Department of Labor (formerly the Department of Human Resources), by doing such things as exploring options for on-line learning initiatives, electronically sharing job-seeker data, and jointly reviewing each others' State plans. SRS officials told us there's been little coordination because of continued reorganization and changes in staffing for the past year at the Department of Commerce. Department of Labor officials reported that it shares job seeker data electronically with the Department of Commerce, and worked with the agency in developing the State Workforce Investment Act Plan.

Department officials told us they decided to discontinue the use of the name "Kansas 1st" when referring to Department employees. However, they still plan to use the name when referring to the initiative. Officials told us they would rely on the Department's regional directors in the five local workforce investment areas to lead this effort, and the Department planned to work with local area workforce investment boards as well.

- As part of the "Kansas 1st" initiative the Department has jointly funded a liaison employee position with the Board of Regents. This person is responsible for collaborating with the Department and the Board to encourage post-secondary institutions to adopt a common vision: to become "the customized training provider of choice of Kansas businesses by 2008, and to equip emerging and incumbent workers with the skills that they need to thrive in today's and tomorrow's economy." The liaison also is responsible for helping post-secondary institutions and the Department find additional funding to improve Kansas' workforce system.

  Finally, the liaison also serves both as Director of Career and Technical Education, and administers the Perkins Act on behalf of the Board of Regents.

- Each local workforce investment area has developed a strategic plan, selected a One-Stop operator, and designated a location for a One-Stop center. The plans detail, among other things, the local areas' goals, the steps they will take to assess labor market needs, and how they will establish One-Stop centers.

Despite these efforts, we identified a number of problems related to coordination of the State's workforce development programs and services. Our findings are discussed in the sections that follow.

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The Workforce Network of Kansas has done little to ensure that employment and training programs in the State are coordinated. The Workforce Investment Act envisioned a State-level board that was active, was aware of the resources available in the State, studied the State's needs, planned a strategy for meeting those needs, and monitored the accomplishment of goals. Our conclusions about the board's lack of action are based on the following:

- Until recently, the Workforce Network board seldom met. As described in Question 1, although its operating guidelines require quarterly meetings, the Board met only twice in calendar year 2003, once in 2004, and twice in 2005. It has met twice so far in 2006.

- The Workforce Network board appears to have accepted a diminished role for itself. Minutes from 2001, 2002, and 2003 show that the board discussed the need to develop a Statewide workforce investment system and to ensure that employment and training services were coordinated. However, board members and Department of Human Resources officials disagreed about the board's role related to workforce programs. Minutes from a mid-2003 meeting showed that the board chair and other members expected the board to play an active role, while Department officials expected the board's role to be minimal, and expected the board to meet infrequently. Board members recently told us they think the board, with the help of Department of Commerce officials, will take a more active role. Department of Commerce officials said they expect the board will be much more active than it has in the past.

- Neither the Workforce Network board nor the Department currently track workforce development programs and services offered in Kansas. Given these agencies' responsibilities, and the Department's charge to create a new integrated workforce development system that's seamless and market driven, we would have expected these entities to compile and maintain the following information:

  - the training and employment assistance programs and courses that are available
  - what their funding sources are
  - where they are offered and by whom
  - what services they provide and to whom

  Although board staff completed a listing of State programs in December 2002, that list didn't include such things as an inventory of vocational and technical training programs or business partnerships, and it isn't being kept current. For this audit, we developed the inventory discussed earlier in this question based on information obtained from State officials, universities, community colleges, technical colleges, and technical schools.

Executive Reorganization Order 31 moved several programs to the Department of Commerce, but no formal coordination has been set up with workforce development programs that stayed in other agencies. The State Plan said that putting workforce

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development programs under the Department's authority would help integrate them. However, employment service programs at the Departments of SRS and Corrections and the Housing Resources Corporation weren't affected by Executive Reorganization 31, and Department of Commerce officials have indicated its Kansas 1st initiative wasn't meant to coordinate <u>all</u> workforce programs, just those located within the Department.

Officials with the other agencies told us they generally don't coordinate with the Department of Commerce, and have no formal memoranda of understanding to do so. Coordination is probably most important with SRS, because its Vocational Rehabilitation Program is one of the "mandated" partners in the One-Stop centers.

Local area workforce investment boards have been slow to create comprehensive One-Stop centers. An official with the U.S. Department of Labor described the One-Stop system as a "mandated umbrella mechanism for providing and / or coordinating workforce information, assessment, referral, and enrollment in program services offered by One-Stop partner agencies co-locating at a single address, and by other entities contracted to deliver additional needed services." The Act required each local area to have a One-Stop center in place by July 1, 2000.

As discussed in Question 1, currently only two local areas (2 and 4) have developed comprehensive One-Stop centers with all the locally available mandated partners present—either physically or technologically, and with the necessary cost sharing agreements and memoranda of understanding.

Locating programs in One-Stop centers can't guarantee that employment and training programs and services will be coordinated across the board. Most program officials we surveyed told us their programs were coordinated with other workforce development programs.

But looking at who they said they coordinated with, we found that most coordinated primarily with their federal counterpart agencies or with a <u>related</u> State-level program. For example, managers with the State-level veterans programs told us they coordinate with the U.S. Departments of Veterans Affairs, Defense, and Labor, and the Kansas Commission on Veterans Affairs.

In addition, co-located programs also are likely to continue operating in "silos" because what they do oftentimes is dictated by their

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own funding streams and administrative and fiscal requirements. Coordination may not occur if there's not an oversight entity that helps ensure the entities within and outside of One-Stop centers are in fact finding ways to coordinate programs, avoid duplication of services, and meet federal requirements. That entity needs to ensure that program officials also are looking for ways to use their resources in the most effective ways possible to fund employment and training programs and services.

Other States Have Had Mixed Success in Their Attempts To Coordinate All Workforce Development Programs

Like Kansas, other states have recognized that, with the various funding sources and individual program requirements that have to be met, fully coordinating workforce development programs is not an easy task.

A 2005 study by the National Conference of State Legislatures found that states have taken various steps to try to coordinate their workforce development programs. The most common step was linking together two of the largest programs—Temporary Assistance to Needy Families and Workforce Investment Act. The coordination between these programs can be formal—using of memoranda of understanding—or informal. For example, in California, the agency administering the Workforce Investment Act and the agency administering Temporary Assistance to Needy Families use workgroups to reduce and eliminate duplication of services.

At least three states have consolidated all workforce programs under a single agency, but North Dakota later reversed that decision. The states we know of that consolidated their programs are Utah, Alaska, and North Dakota:

- Alaska consolidated workforce development related programs into its Department of Labor and Workforce Development in 1999. It later received a waiver from the U.S. Department of Labor to merge its two local workforce areas into a single state regional planning area. The Alaska Workforce Investment Board now serves as both the state workforce investment board and the single local workforce investment board.

  Alaska is reported to be progressing from co-location of workforce development services at One-Stop centers to true integration of services, including alignment of functional resources, job center redesign efforts, improved cross training, and the inclusion of additional community partners who offer employment and training-related services through the Alaska Job Center Network.

- In 1996, the Utah Legislature consolidated all state employment, job training, and welfare functions into a newly created Department of Workforce Services. These functions had been housed in agencies

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such as the Department of Employment Security, the Office of Family Support, the Office of Job Training, and the Office of Child Care. Vocational Rehabilitation was not included in the consolidation. A follow-up audit conducted in 2000 found there was an improved focus on customer service, and the state had been able to reduce its overall number of administrative and support positions.

- About five years ago, the North Dakota Legislature consolidated funding for job services, human services, career and technical education, and other related workforce services into a newly developed Department of Commerce. It did so to help eliminate duplication among programs from the various federal and state funding sources.

  That consolidation has since been reversed, and the state's legislature made the North Dakota Department of Commerce responsible for overseeing workforce programs and gathering and reporting accountability data. North Dakota officials said the reversal happened because the newly-formed Department of Commerce wasn't fully operational when programs were transferred and pulling funding from other Departments created animosity. The Department now only is responsible for providing policy recommendations to the governor for how to continue to coordinate state and federal funding for workforce development and training.

  Like Alaska, North Dakota has one local workforce investment area and a single state and local workforce investment board—the North Dakota Workforce Development Council. It has 14 One-Stop centers across the state that operate under the same policies and procedures. The majority of the One-Stop partners' services are delivered by electronically linking the job delivery system. If an individual goes to a One-Stop center, he or she can access all the core services electronically.

Conclusion Nearly $129 million is being spent on 35 State or federally funded workforce development programs alone, and an undetermined amount is being spent on a wide array of other training programs, courses, and partnerships. Despite the attempts that have been made to coordinate such programs in Kansas, the Workforce Network board, the Department of Commerce, and local area workforce investment boards still have a long way to go to overcome the program silos that still continue to exist within the workforce areas. Developing a well-coordinated system is especially challenging because no single entity has the authority on a Statewide basis to direct the types of changes that will be needed. Nonetheless, more coordination can be generated by fostering a spirit of cooperation among the various entities involved in workforce development.

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Recommendations

1. To help improve the coordination that exists among workforce development programs in Kansas, the Department of Commerce should do the following:

    a. solicit ideas from staff in the local workforce areas on specific ways they could share staff or other resources without violating federal program requirements. Such steps could include surveying staff, setting up working groups, or the like.

    b. establish a mechanism (such as a newsletter or web link) for local workforce investment areas to be able to share ideas for coordination on an ongoing basis.

    c. provide information about ways local areas could coordinate their programs to the Workforce Network of Kansas, so that it can use such information in developing State plans and establishing overall policies and goals for the State.

2. The Workforce Network of Kansas should establish a mechanism for actively monitoring the extent to which local areas have adopted measures aimed at coordination, and should encourage local workforce investment boards that haven't adopted those measures to do so.

APPENDIX A
Scope Statement

This appendix contains the scope statement approved by the Legislative Post Audit Committee for this audit on January 30, 2006. The audit was requested by Senators Karin Brownlee and Peggy Palmer.

Workforce Development: Reviewing the Use of Workforce Investment Act Moneys in Kansas

During the 2005 legislative interim, the Joint Committee on Economic Development spent several days hearing testimony about workforce development programs in Kansas. They were briefed on the Workforce Investment Act and other programs operated by a variety of State or local agencies.

The Workforce Investment Act, passed by Congress in 1998, focuses on meeting business' need for skilled workers, and the training, education, and employment needs of individuals. One key aspect of the Act is a "one-stop" concept where information about and access to a wide array of job training, education, and employment services is available for customers at a single neighborhood location. At those locations, customers are supposed to easily receive a preliminary assessment of their skill levels and needs, and obtain information about employment-related services and local education and training service providers. Workers also are supposed to be able to get help filing claims for unemployment insurance and with evaluating their eligibility for job training and education programs or student financial aid. Finally, they can access job search and placement assistance, receive career counseling, and have access to up-to-date labor market information.

The Act requires each state to establish both state and local workforce investment boards and to develop a 5-year strategic plan for how the requirements of the Act will be implemented. It also requires the establishment of performance measures for the program. Reviews conducted by the Department of Labor have cited deficiencies in Kansas's compliance in certain regions, including the lack of a one-stop shop in some areas, improper procurement practices and use of funds for unallowable purposes.

Since January 2004, the Employment and Training Division of the Department of Commerce has had responsibility for administering the Act.

The testimony the Joint Committee heard in 2005, together with previous complaints members have heard from constituents who have had difficulty in receiving training or job search assistance, have caused legislators to request an audit looking at workforce development programs and the Workforce Investment Act. Among their general concerns about workforce development programs are the lack of good information about the vast array of programs that exist in multiple State agencies, and the apparent lack of oversight and coordination of those programs. Specific concerns about the Workforce Investment Act relate to the amount of administrative structure and expense, what various boards are responsible for, how the structure all fits together, how members get appointed to oversight boards, and whether the structure complies with the requirements of the Act. A related issue is how much of the money actually is reaching the workers who are the intended recipients of the money, how many people are receiving training and other services, and whether they appear to be benefiting from the services. Finally, legislators are concerned about the provisions of contracts being established with private entities that provide fiscal or job training services, and the methods for establishing those contracts.

A performance audit of this topic would address the following questions.

1. What programs in Kansas meet the definition of workforce development adopted by the Joint Committee on Economic Development in 2005, and what level of coordination exists for those programs? To answer this question, we would review testimony presented to the Joint Committee and become

familiar with its definition of workforce development. Also, we would review work that Legislative Research, NCSL, or others may have already done to identify workforce development programs in Kansas. We would contact the Department of Commerce, the Department of Labor, the Department of Corrections, the Governor's Office, the Department of Education, the universities, community colleges and other applicable agencies, individuals, or entities to identify relevant programs. For each program we would identify its purpose, sources of funding, amount of funding it has received in the most recent year, who oversees the program, who decides how program funds are spent, and criteria for awarding funding. In addition, we would determine the extent to which the officials from these programs coordinate with each other to avoid duplication and to formulate goals. As part of our work, we would review and report on the role of Kansas First in coordinating these types of programs in the State.

2. Does the administrative structure Kansas has established for the Workforce Investment Act comply with the requirements of the Act? To answer this question, we would review the basic requirements of the Workforce Investment Act and talk to U.S. Department of Labor officials as needed to understand the requirements. We would review the structure of the program at the State and local level in Kansas, including the Local Workforce Investment Boards, Local Elected Official Boards, the Regional Economic Area Partnership (REAP), the Kansas First Team, and others, to identify who is appointed to each entity, how those appointments are made, and what each entity's role is in overseeing the program, allocating moneys, awarding contracts, and the like. We would talk to members and review minutes or other documents for these entities as needed, to identify the roles each entity plays in the overall oversight structure for the program. Also, we would compare the structure that has been established in Kansas to the requirements of the Act and to any relevant provisions in the State's five-year strategic plan to identify any differences. Finally, we would review the results of any federal reports that have commented on or made recommendations about the administrative structure in Kansas.

3. How much of the Workforce Investment Act funding is being spent on administration and oversight, and how much is being spent directly on worker training and assistance activities? To answer these questions, we would track the funding that comes in from the federal government and determine what portion of that money was spent on overhead items, such as the expenses of the various oversight entities, and how much is being spent directly on the services being provided by the "one-stop" shops where the clients access the services. We would generally categorize the spending that has occurred into such things as travel and expenses for oversight board members, general administration, capital costs (such as office remodeling) and direct services to workers and businesses. We would review any audits that have been done of the program or of individual areas to determine what those audits may have found about spending and the achievement of goals. Under this question, we also would look at the number of workers and businesses seeking and receiving services from the program in each area. We would look at what types of performance measures have been established, what data have been collected about employment levels, retention, and wage rates, and what the data show about how well the program is meeting performance measurement goals.

4. What types of contracts have local areas entered into to provide training or job-assistance services, what are the terms of those contracts, and have those contracts been awarded competitively? To answer this question, we would review each of the State's administrative areas and how they operate. For any services that are provided by a private entity under contract with the local boards, we would determine what services are being provided, and what the provisions of those contracts are in terms of compensation, expenses, and incentives. We would also look at the processes that have been used to award those contracts, and whether they appear to comply with the requirements for the Program. We would conduct additional work in this area as needed.

Estimated time to complete: 12-15 weeks

APPENDIX B

Programs Required to Make Services Available in One-Stop Centers

Program and Description	Agencies Responsible for Program in Kansas
Workforce Investment Act - Adult Program: Provides employment and training services to help individuals find and qualify for employment.	Local Workforce Investment Act Boards
Workforce Investment Act - Dislocated Workers Program: Provides services to individuals who have been laid off through no fault of their own, and are not expected to return to their previous employer.	Local Workforce Investment Act Boards
Workforce Investment Act - Youth Program: Helps low-income youth who have barriers to employment prepare for employment and/or post-secondary education.	Contracted out to various entities
Job Corps: Employment training and services for youth 14-21 years of age in a residential setting.	Flint Hills Job Corps Center
Native American Programs: Provide training to Native Americans.	United Tribes of Kansas and Southeast Nebraska
Migrant & Seasonal Farm workers: System in place to offer migrant and seasonal farm workers the full range of employment services, benefits, and protections. Funded with Wagner-Peyser funds.	Department of Commerce, SER Corporation
Local Veterans Employment Representative Program: Encourages employers to hire veterans and generally assists veterans in gaining and retaining employment.	Department of Commerce
Wagner-Peyser Job Service Program: Nationwide labor exchange program that matches individuals seeking employment with employers.	Department of Commerce
Trade Adjustment Assistance: Assists employees in manufacturing industry whose jobs were lost because of competition from imports or as a result of free-trade agreements.	Department of Commerce
Older Kansans Employment Program: Provides older Kansans 55 and older with an employment placement service	Department of Commerce
Adult Education and Literacy Programs: Helps adults to become literate and obtain knowledge and skills necessary for employment and self-sufficiency. The Program also assists adults with secondary education and helps parents obtain the educational skills needed to become full partners in the educational development of their children.	Various educational institutions such as community colleges and adult learning centers.
Vocational Rehabilitation Program: Helps people with disabilities prepare for and engage in gainful employment consistent with their disability, rehabilitation needs, and vocational objective.	Department of Social and Rehabilitation Services
Disabled Veterans Outreach Program: Provides intensive employment services to disabled and other eligible veterans who are economically or educationally disadvantaged.	Department of Commerce
Community Services Block Grant: This Program provides grants to organizations that provide services to individuals in poverty, including assistance in gaining employment, making better use of available income, and providing linkages to other community resources.	Kansas Housing Resources Corporation
Post-Secondary Vocational Education activities under the Carl D. Perkins Act: Local education entities receive grants through the State for use, including equipment, staff development, and expansion of technical programs.	Various education institutions
Employment and training activities carried out by the Department of Housing and Urban Development: This employment and training program is available in urban areas. In Kansas, there is only a presence in Wichita.	Local workforce investment Area 4 (Wichita) board staff-The Workforce Alliance
Unemployment compensation programs: These programs provide financial assistance to unemployed individuals. Applicants can apply for unemployment benefits at a One-Stop center.	Department of Labor
Source: LPA summary of information from the Workforce Investment Act of 1998.	

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APPENDIX C

Agency Responses

On August 4, 2006 we provided copies of the draft audit report to the Department of Commerce, the Board of Regents, the chair of the Workforce Network of Kansas, and to the chairperson and executive director of each local workforce investment area. The responses we received are included in this appendix. Officials from Local Workforce Investment Area 2 chose not to provide a written response.

After reviewing all responses, we made a number of wording changes and clarifications to the final report that didn't change our overall findings and conclusions. We also modified the last recommendation in Question1 related to the composition of Area 4's local elected officials board.

Three issues raised in the Department of Commerce's response warrant further clarification.

The Department was concerned that our report gave "the misleading notion that federal reviews reflect an ineffective monitoring program." In support of its concern, the Department cited a paragraph from a July 2003 U.S. Department of Labor review that was complimentary of the monitoring program's written reports at that time. However, the more recent federal reviews cited in our report from September 2004 and June 2005 were critical of the monitoring function.

The Department also disagreed with our finding that Local Areas 1, 3, and 5 lack fully functional One-Stop centers. Officials from the Department explained that those local areas have memoranda of understanding and referral agreements with required programs that aren't physically present in the One-Stop centers. After carefully reviewing responses from the Department and the local areas we haven't changed our conclusion. Simply having a memorandum of understanding in place between programs doesn't meet the basic requirement of the Workforce Investment Act, which requires that each Local Area have a "One-Stop" center where jobseekers and employers can access a wide array of federally funded workforce development services without having to be referred to a separate physical location.

The Department asserts that a $234,000 agreement it has with Kansas Legal Services to help farm workers transition from farm to non-farm employment is a grant rather than a contract, and does not have to be competitively bid because the Department doesn't receive any direct services under the agreement. Until June 2005, these services had been funded by a national emergency grant from the U.S. Department of Labor. At that time, the Department changed the funding source to Workforce Investment Act moneys. That Act requires services to be competitively procured.

Finally, the Department pointed out that the Workforce Network of Kansas is advisory in nature. We made a changes to several sections of the draft report to more accurately describe the Board's role.

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HOWARD R. FRICKE, SECRETARY

KANSAS

DEPARTMENT OF COMMERCE

KATHLEEN SEBELIUS, GOVERNOR

RECEIVED
AUG 18 2006
LEGISLATIVE DIVISION
OF POST AUDIT

August 18, 2006

Barb Hinton, Director
Legislative Post Audit
800 SW Jackson, Suite 1200
Topeka, KS 66612-2212

Dear Ms. Hinton:

Thank you for the opportunity to respond to the questions and recommendations outlined in the Legislative Post Audit (LPA) report on Workforce Development. It is our goal to experience continuous improvements within the state's workforce development system, and feel that an audit of this nature can be a helpful tool for identifying areas that need further attention. Attached please find the full response from the Kansas Department of Commerce to the questions and recommendations outlined by LPA. (Attachment I)

Upon review of the audit, I was pleased to find several instances where recommended actions were already in the process of being implemented, and in some cases had begun prior to the start of the review. We value these findings, which reinforce the positive direction the workforce development system is moving. For example, we are currently looking for another administrative entity in Local Area III, and will continue to work on providing financial data to all areas that meet their needs.

We also appreciate the audit's acknowledgement that it is difficult to develop a well-coordinated system when no single entity has the administrative authority on a statewide basis. We also agree that more can be accomplished by fostering a spirit of cooperation among all workforce development partners. However, given the duration of the 22 week audit, we certainly would have benefited from a more thorough set of recommendations. We also felt it was important to provide feedback to Question 2, due to the lack of recommendations.

One of the biggest areas of concern with the audit is the misleading notion that federal reviews reflect an ineffective monitoring program. In fact, the report references several reviews conducted by the United States Department of Labor (USDOL) which highlight a contrary finding. Please refer to USDOL's review of July 2, 2003, page 6, which is attached (Attachment IIa) and states the following:

1000 S.W. JACKSON STREET, SUITE 100, TOPEKA, KANSAS 66612-1354

Phone: (785) 296-3481 Fax: (785) 296-5055 e-mail: admin@kansascommerce.com

TTY (Hearing Impaired): (785) 296-3487 www.kansascommerce.com

> "...Based on the WIA review that the Regional Office fiscal staff have conducted over the last two years, we feel that the monitoring reports issued by the State's Workforce Compliance and Oversight (WCO) unit were exceptionally written and provided an insightful and comprehensive examination of this program. The reports showcased the monitors' vast knowledge base in both the programmatic and financial requirements..."

It is important to note that upon being transferred to Commerce, WCO has been actively and fully engaged in the monitoring and oversight process. For more in-depth information, including a list of reviews conducted since July 1, 2004 and a proposed schedule for the current year, please see Attachment III .

Again, we feel this LPA report can be an important tool as we continue to make improvements to the Workforce Development system. If you have further questions or comments, please feel free to contact Rae Anne Davis or me.

Sincerely,

Howard R. Fricke

Howard R. Fricke
Secretary, Kansas Department of Commerce

ATTACHMENT I

KANSAS DEPARTMENT OF COMMERCE
WORKFORCE DEVELOPMENT RESPONSE

Question 1: Does the administrative structure Kansas has established for the Workforce Investment Act comply with the requirements of the Act?

Recommendation 1: To ensure that it is fulfilling its responsibilities under the Workforce Investment Act, the Workforce Network of Kansas should do the following:

Recommendation 1a: Schedule and hold meetings frequently enough to take an active role in the oversight of workforce investment programs. Such meetings should at a minimum be quarterly.

Commerce Response:
We agree that the WNK Board should take a more active role in guiding the state's workforce development system. We have worked closely with the chairman to encourage the board to undertake strategic planning activities and create a subcommittee structure to facilitate board member engagement.

While there was a period of time when the Board did not meet regularly, quarterly meetings for 2006 were scheduled at the start of the year. The June meeting was cancelled by the chair out of concern for lack of a quorum, but the Executive Team did hold a conference call to handle all of the action items on the agenda. Several other board members participated in the conference call as well. We fully anticipate that the Board will meet at least quarterly in the future and meetings are scheduled for October 6 and January 5. The 2007 meeting schedule will be established at the January meeting.

However, we do want to note that the Act clearly establishes state boards as advisory, not oversight, entities. The role of the WNK Board is to assist Commerce in developing a state plan and in the continuous improvement of the state workforce investment system. The WNK Board is not tasked by the Act to autonomously develop a strategic plan or direction for Workforce Development in Kansas. The strategic planning activities the Board is about to undertake will result in a framework, that when combined with the strategic direction of Commerce (the oversight entity), will establish an overall framework to guide local board activities across the state.

Recommendation 1b: Develop a plan that specifies the steps needed for Kansas to have comprehensive One-Stop centers that meet the intent of the Act, and work with local officials to ensure that those centers are established, and that all required cost-sharing agreements and memoranda are put in place.

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Commerce Response:
The report indicates there are One-Stops in Local Areas II and IV but do not exist in Local Areas I, III and V. The following is a description of the comprehensive, WIA defined One-Stops that now exist in Local Areas I, III, V.

Local Area I:
Recently the Local Workforce Investment Board (LWIB) and the Chief Elected Officials Board chairs designated the Great Bend Workforce Center, 1025 Main Street, as the comprehensive One-Stop for Local Area I. MOUs and cost sharing agreements are in place, including those with Trade Adjustment Act and Vocational Rehabilitation, to ensure all requirements under the Act are met for One-Stop compliance.

Local Area III:
Updated and revised MOU's were formally adopted and signed by all partners in April 2006, and renewed energy has been devoted to ensuring a comprehensive One-Stop has been achieved in the Kansas City, Kansas location.

All partner agencies have been meeting monthly to facilitate information sharing, continuous system improvement, and to provide cross-training to select agency staff (cross-training efforts are ongoing).

At the urging of Commerce, the LWIB has established a series of working committees comprised of cross-sections of personnel from all partner programs to ensure open communications and continuous improvement in the delivery of services.

The center, located at 552 State Ave. has dedicated additional physical space to accommodate increased partners' presence. Partners are currently maintaining physical presence on-site on an itinerate basis. Commerce personnel provide partner-specific information and core services directly or indirectly via electronic means and/or referrals, if there are gaps in itinerate schedules.

Job Corps is, and has been, physically co-located in the KCK Workforce Center. The Local Area's Older Worker contactor works out of all 3 local Workforce Centers on an itinerate basis as well. Achieving full integration with all partners – to include physical co-location with formal cost-sharing agreements – continues to prove problematic due to factors such as partners' pre-existing lease commitments at other locations, partner financial limitations/constraints, partners' satisfaction with current office locations in terms of proximity to and convenience for their targeted service populations, and to some degree, a seeming lack of emphasis or commitment to full integration from partner agency hierarchies. Despite the notable challenges with co-location services from all partner agencies, a comprehensive One-Stop, by WIA definition, is accomplished through itinerant services and oversight thereof.

Local Area V:
Recently the Pittsburg Workforce Center, located at 105 West Euclid, was established as the mandatory One-Stop for Area V under the definition in WIA. Through signed MOUs, including cost sharing agreements, with required local partners and signatures by the LWIB and Chief

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Elected Officials Board chairs, this One-Stop effectively and comprehensively serves individuals and businesses in Southeast Kansas.

The Workforce Network of Kansas Board (WNK), the State Board, formed a sub-committee to address the One-Stop certification issue. The results of the work of the committee are a detailed document describing the process for any location in the State to become a State certified One-Stop. The document has been distributed for comment and the committee plans to incorporate ideas/comments and present the revised document to the full Board during the October meeting. This document, when completed, will be made available to Legislative Post Audit as a supplement to the study.

On page 16 of the report - "...and that Local Area V lacks a veterans employment representative."

There is a veteran's representative in the Emporia Workforce Center and one in the Pittsburg Workforce Center. There is also a vacant veteran's position in Local Area V which is in the process of being filled.

Recommendation 2: To address concerns raised in federal reviews about the ineffectiveness of Kansas' monitoring program, the Department of Commerce should do the following:

Recommendation 2a: Develop a regular schedule of monitoring efforts that will be carried out to ensure that Workforce Investment Act monies are spent appropriately and that performance goals are met.

Commerce Response:
Since July 1, 2004, Commerce has implemented an aggressive monitoring program including completion of the reviews listed below:

- LWIA I Monitoring Report
- LWIA I Youth Program Report
- LWIA I Monitoring Follow-up Report
- LWIA I Adult & Dislocated Worker Program
- LWIA I One-Stop Review
- LWIA II Monitoring Report
- LWIA III One Stop Review
- LWIA IV Monitoring Report
- LWIA IV Youth Program Report
- LWIA IV Adult and Dislocated Worker Program
- LWIA V Monitoring Report
- LWIA V Monitoring Follow-up Report
- LWIA V Youth Program Report

- LWIA V Adult & Dislocated Worker Program
- KS WIA Local Board Membership Composition Report Area I
- KS WIA Local Board Membership Composition Report Areas II, III, IV, V

Further, WCO currently has scheduled the following monitoring activities:

- All LWIA's – Equal Opportunity Compliance
- All LWIA's – ADA/Universal Access
- LWIA 1 – Financial Management
- LWIA II – Financial Management
- LWIA IV – Financial Management
- All LWIA's – Local Monitoring
- All LWIA's – Management Information Systems - USDOL Data Validation/Verification
- All LWIA's – Local Area Operations/Local Plan
- Contract for Services Review of Kansas Legal Services
- All LWIA's – Migrant Seasonal Farmworker Program
- All LWIA's – Memoranda of Understanding (desk review)

The above is not inclusive of other duties assigned to WCO staff or appropriate review follow-ups or investigations as warranted.

For more information on the monitoring and oversight process please see Attachment III.

Recommendation 2b: Determine an appropriate number of staff to carry out that function, and staff the monitoring unit accordingly.

Commerce Response:
Commerce will staff the monitoring unit with an appropriate number of staff to enable the agency to carry out all of its required monitoring activities.

Recommendation 3: To ensure that the Department of Commerce isn't in the position of monitoring its own performance, it should work with Local Areas 3 and 5 to find another administrative entity for their programs.

Commerce Response:
In July, Commerce announced to Local Area III employees that we would not be responding to the RFP for WIA services the local board is planning to issue at the end of August. Because the Local Area III board has developed a timeline for this action, we were able to share this information with our employees. The Local Area V board has not made a determination to issue an RFP for WIA services. We will continue to work with the local board as they consider their options. Changing of the administrative entity is a complex process and is controlled by the

local board, not by Commerce. In Local Area III, the decision to seek a new WIA provided was made and announced one year ago and the RFP timeline was not finalized until late July 2006. This timeline envisions a six month transition period between signing the contract and taking over the work. Commerce is committed to making this a successful transition and will ensure that continual services are provided in both local areas until such a time that new providers are in place.

While we agree that Commerce should not fill the roles of both the oversight entity and the WIA service provider, no actual conflict of interest exists under the portion of the Act controlling these activities. Over many years, the federal government has repeatedly reviewed these arrangements and has never brought such an issue to our attention. Their informal guidance has recently been that we ought to focus on our role as state administrator. It is fully our intention to do so, but we cannot commit to a timeline until the Local Area V board develops one.

Recommendation 4: To ensure that board members in all local areas have the information they need to make budgetary and spending decisions, the Department of Commerce should:

Recommendation 4a: Work with the local board members to come up with report format that will serve the needs of both the Department and local board members.

Commerce Response:
We will continue to provide financial data to the locals and will continue to work with the Local Area V board to develop a format that meets their needs.

Recommendation 4b: Ensure that those reports are provided to local officials on a timely basis.

Commerce Response:
We recognize that there was a time period during which Commerce did not provide adequate budgetary data, but this has been addressed and as of this past spring, we believe it has been resolved. We will continue to provide the data on a timely basis.

Recommendation 5: The elected city and county official in Local Area IV should change the membership of the chief local elected officials board to conform to the requirements of the Workforce Investment Act. Under the Act, the board's membership can only include people who are elected to office and who also are from one of the counties that comprise the local area.

Commerce Response:
Section 117(c)(1)(B)(i) of the Workforce Investment Act establishes requirements for Chief Elected Official Agreements. In addition, Subpart C of the Preamble to the Final Regulations, dated August 11, 2000, expressly authorizes delegation of CEO authority under Title I to other entities. This delegation does provide for such representation from non elected officials. Should such delegation occur, however, the CEO remains liable for funds received under Title I of WIA.

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In addition to these statutory provisions, the Department of Commerce has further issued Policy Guidance (03-04-00) on Chief Elected Official governance including requirements for what responsibilities must be addressed under such agreements.

Local Elected Officials in Area IV delegated their responsibilities to the Economic Development Committee of the Regional Economic Area Partnership (REAP). The Economic Development Committee is made up of locally elected officials from the counties comprising WIA Administrative Region IV. Only elected officials from Area IV who are members of the Economic Development Committee vote on WIA related matters. This is reflected in a modification to the REAP agreement submitted during Program Year 2004. This agreement meets with established federal and State guidelines on authorized CEO representation in Local Area IV. Local Area IV submitted a revised agreement as part of a response to this United Sates Department of Labor finding dating back to March 2000. Copies of correspondence related to this issue along with the revised REAP agreement is available for review. Commerce believes the modified agreements and policy guidelines indicate no need for a membership change.

Question 2: How much of the Workforce Investment Act funding is being spend on administration and oversight, and how much is being spent directly on worker training and assistance activities?

Commerce Response:
Legislative Post Audit's report contained no recommendations for Question 2, but Commerce has some comments regarding the information contained in this section.

Many of the issues discussed in this section were inherited by Commerce. Commerce, along with the cooperation of the Local Area I LWIB and Local Chief Elected Officials Board, was able to correct the problems in Area I. A new Administrative Entity began serving the Area on July 1, 2005.

Statewide financial issues have also been addressed by Commerce and steps have been taken to ensure fiscal responsibility and accountability. Local Areas do not have "cash on hand" from WIA funds. These funds are drawn-down only on a cost reimbursement basis. The Department also sponsored two statewide training sessions during Program Year 2005 that focused on financial management issues including grant management, procurement and a number of other financial areas. US Department of Labor audit and fiscal staff provided much of the training at these two sessions. Also during Program Year 05 the State contracted with Wipfli Young to provide a training conference for WIA financial staff on audit standards and requirements. In addition a committee composed of State and Area fiscal staff was formed to discuss mutual fiscal issues and concerns and to share best practices among the areas. The committee meets quarterly. Financial issues as reported in early monitoring reviews have been resolved and the Department continues to focus efforts on improving the financial management capacity of all program operators.

The Department would also note that table 2-2 which represents administration as a percentage of total spending is either inaccurate or a misrepresentation of State administrative spending under WIA. The table suggests that the Department spent from 39.6 to 48 percent of total available funding on administration for each of the Program Years listed. It should be pointed out that WIA State administration is restricted to 5 percent of WIA funds available. This amounts to a cap of approximately $1 million per year. The Department has traditionally spent well under the amounts available and spent approximately 67 percent of available administrative funds for Program Year 05. Unused and unspent administrative funds are traditionally used to supplement State Program activities.

Question 3: What types of contracts are in place to provide training or job-assistance services, what are the terms of those contracts, and have those contracts been awarded competitively?

Commerce Response:
Commerce appreciates the comments of Legislative Post Audit (LPA) with respect to the contracting process for services obtained with Workforce Investment Act (WIA) monies. Commerce agrees, as a general rule, that competitive procurements may be advantageous and will continue to comply with all federal and state procurement statutes, regulations, policies, and procedures.

Prior to responding to the specific recommendations regarding the contracting process, Commerce has some general comments about the process that clarify some of the information set forth in Figure 3.1 of the Draft Audit. Figure 3.1 is somewhat misleading by failing to mention that three of the nine contracts listed as not being competitively bid were contracts originally entered into by the Kansas Department of Human Resources (KDHR). The three contractors for those agreements are KLS, EEK Human Resources Consultation, and Mike O'Hara. The original procurements were handled by KDHR, and Commerce has merely exercised contractual renewal rights afforded the agency under those agreements. Exercising a contractual right to renew a contract may be distinguished from the process involved in the original procurement, and is in complete compliance with applicable state guidelines. Further, the agreement with Kansas Legal Services (KLS) in the amount of $234,302 is properly a grant and not a contract for services. Consequently, Commerce believes this agreement need not have been competitively bid as there was no legal requirement that it be competitively bid. This particular grant has been in place since 1995 and was originally funded directly by the United States Department of Labor (USDOL).

The KLS agreement is not a contract for services as defined by K.S.A. 75-3739(a). State procurement law requires competitive bids for "all contracts for construction and repairs, and all purchases of and contracts for supplies, materials, equipment and contractual services to be acquired for state agencies shall be based on competitive bids . . . ." The KLS agreement at issue is funded through the state's allocation of WIA Set Aside funds. The services under the agreement are provided to dislocated farmers and ranchers throughout the state. The Kansas Department of Administration typically distinguishes between a grant and a contract on the basis

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of whether the procuring agency receives a direct service or tangible benefit under the agreement. In this instance, Commerce is merely passing through federal funds for the benefit of the dislocated farmers and ranchers. The agency receives no direct or tangible benefit under the agreement. Therefore, under state law, the agreement with KLS was not subject to state competitive bid requirements.

Recommendation 1: To ensure that the contracting process for services provided with Workforce Investment Act monies is open to competition and complies with State and federal requirements, the Department of Commerce should do the following:

Recommendation 1a: Work to reduce the number of contracts it awards on a sole-source basis.

Commerce Response:
Commerce will seek competitive bids when necessary and in the best interests of the agency, the State of Kansas and to ensure the efficient use of federal funds. Commerce will continue to strive to follow best practices in terms of procuring services and will seek competition when available and follow good procurement practices. Commerce has implemented a comprehensive process for approving contracts which provides for a comprehensive review of all procurements by agency management.

Recommendation 1b: Clearly document the steps it takes to look for other vendors who potentially could provide the service, and what the results of those steps were.

Commerce Response:
Commerce agrees that it is important to document the actions involved in a procurement process. This should include documentation of the steps taken to determine whether other vendors could potentially provide the services at issue (if applicable) and document any analysis of other potential vendors. Commerce has already revised its WIA Fiscal Manual which contains procurement guidelines and information.

Recommendation 1c: Submit all contracts to be awarded on a sole-source basis to the Division of Purchases for approval.

Commerce Response:
All contracts proposed to be awarded on a sole source basis will continue to be submitted to the Division of Purchases for approval. It should be noted that none of the contracts identified by LPA Figure 3.1 were awarded without seeking and obtaining the appropriate prior approval from the Division of Purchases.

Recommendation 2: To ensure that all local area contracts comply with the provisions of the Workforce Investment Act, officials in Local Area IV should review the performance payment provisions of their contract with Arbor Education and Training with officials from the U.S. Department of Labor to determine whether those provisions quality as performance payments that would be acceptable under the Act.

Commerce Response:
We believe the issue has been resolved. A corrective action plan was submitted to Commerce by Local Area IV.

Recommendation 3: To ensure that all its contracts are legally binding and current, officials in Local Area I need to complete all requirements for officially renewing or re-bidding all contracts they have that currently are expired.

Commerce Response:
We have confirmed with Local Area I officials that all expired Area I contracts had been renewed or rebid and were current. Local Area I will be responding in the same manner.

Question 4: What other programs in Kansas meet the definition of workforce development adopted by the Joint Committee on Economic Development in 2005, and what level of coordination exists for those programs?

Commerce Response:
The Department of Commerce concurs with the LPA conclusion that developing a well coordinated system is especially challenging when no single entity has the authority on a Statewide basis to direct system change. We also agree that additional coordination can be generated by fostering a spirit of cooperation among the various entities involved in workforce development.

In response to the LPA recommendations the Department will expand current efforts to solicit ideas from staff in the local areas on integrating and sharing staff resources. On that order the Department recently convened meetings with the Older Worker Task Force, service providers and Older Worker advocacy groups to develop a strategic plan that is aimed at better integrating and expanding workforce development services available to the Older Worker population including but not limited to improving access to WIA training services for Older Workers. In addition, the Department plans on conducting regular quarterly meetings with Area administrators and Board members to obtain input on ways to improve coordination between programs and Local Areas.

Recommendation 1: To help improve the coordination that exists between workforce development programs in Kansas, the Department of Commerce should do the following:

Recommendation 1a: Solicit ideas from staff in the local workforce areas on specific ways they could share staff or other resources without violating federal program requirements. Such steps could include surveying staff, setting up working groups, or the like.

Commerce Response:
This is an excellent recommendation and we will work with the leadership of the local areas to develop a plan to solicit such input from staff.

Recommendation 1b: Establish a mechanism (such as a newsletter or web link) for local workforce investment areas to be able to share ideas for coordination on an ongoing basis.

Commerce Response:
We have recently established monthly meetings between Commerce leadership and the Executive Directors of all of the local areas. These Executive Directors also meet regularly on their own to discuss issues. These meetings provide an excellent platform for sharing of ideas and information that inevitably results in ongoing improvements in coordination. Further, the new website being developed for the WNK board will include mechanisms to facilitate such communication.

Recommendation 1c. Provide information about ways local areas could coordinate their programs to the Workforce Network of Kansas, so that it can use such information in developing State plans and establishing overall policies and goals of the State.

Commerce Response:
Each local area will be on the WNK board agenda to update the board on current activities. This will give the board information it can use to as they assist Commerce in developing the state plan.

Recommendation 2. The Workforce Network of Kansas should establish a mechanism for actively monitoring the extent to which local areas have adopted measures aimed at coordination, and should encourage local workforce investment boards that haven't adopted those measures to do so.

Commerce Response:
Commerce is developing an incentive system within the State Set Aside fund stream that would provide funds for the implementation of creative ideas and approaches on service coordination in the One Stop system. This concept will be brought before the State WNK Board and if approved a process will be put in place that would permit the Board to take positive action by funding integration and coordination activities in the Local Areas. The Department will also develop as

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part of the WNK Board website a section highlighting innovative strategies or initiatives in the Local Areas. This will not only spotlight these initiatives but will allow others the opportunity to view best practices occurring in the State. In addition, the website will incorporate a link allowing for comments and suggestions on ways to better coordinate workforce development in Kansas. Recommendations or suggestions posted on this site will be made available to agency and area policy and administrative staff for consideration. We believe these positive actions will help promote and foster better coordination among the workforce development programs with which the agency is involved.

ATTACHMENT IIa

U.S. Department of Labor

Employment and Training Administration
REGION V - The Great Heartland

John C. Kluczynski Building
230 South Dearborn Street, 6th floor
Chicago, IL 60604-1505

City Center Square
1100 Main - Suite 1050
Kansas City, MO 64105-2112

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RECEIVED

DIVISION OF
EMPLOYMENT AND TRAINING

July 2, 2003

Jim Garner, Acting Secretary
Kansas Department of Human Resources
401 SW Topeka Boulevard
Topeka, Kansas 66603

Dear Mr. Garner:

During February and May 2003, Deborah Galloway and Jim Kinney from the Chicago Regional Office conducted a financial management review of the federal Workforce Investment Act (WIA) program operated by the Employment and Training Division of KDHR. As part of our review of the State, we performed an onsite examination of the WIA operations of LWIB #1 and Westco. Enclosed is our report of the findings and observations resulting from these reviews.

As the Grantee, you are responsible for the resolution of these findings at both the State and local level. You are required to submit a corrective action plan that formally responds to each of the findings. Your response should be submitted to the Chicago Regional Office within 60 days of receipt of this report.

Please mail your response to:

Ms. Deborah A. Galloway
U.S. Department of Labor/ETA
230 South Dearborn 6th Floor
Chicago, Illinois 60604

A copy of the report has also been given to Mr. Jim DeCoursey of the Employment and Training Division, Mr. Glenn Fondable of Westco and Bob Hansen of the Kansas City Regional Office. If you have any questions, please contact Deborah A. Galloway at 312/596-5456 or email at galloway.deborah@dol.gov or Jim Kinney at 312/596-5453 or kinney.jim@dol.gov.

Sincerely,

BARRY S. DALE
Director
Office of Financial & Administrative Services

Enclosure
Cc: jdecoursey
gfondable

AMERICA'S WORKFORCE NETWORK

1-77

Additionally, the instructions require that program income and stand in costs be recognized and reported however, these items are not defined. To assist in the accurate completion of this report, it would be beneficial for the State to provide the federal definitions of these items. Definitions for stand in costs and program income can be found at WIA section 185(f)(2) and 20 CFR 667.200(a)(5).

RECOMMENDATION

We recommend that the State revise it expenditure report forms to be consistent with federal definitions and requirements. Once completed, the State must provide a copy of the new form/forms and the instructions to the Regional Office. This finding is uncorrected.

OBSERVATIONS

Expenditure Report Forms and Contract/Agreements

Different forms are used to report expenditures on WIA formula funds and WIA special projects. It is suggested since many awardees of WIA special projects are the same entities receiving WIA formula funds that a common form be used. Likewise, the agreement or contract that legally binds the State and its local areas or subgrantees is similar in nature. The agreements or contracts should contain the same provisions and clauses since they are funded from the same program. The agreements should contain the proper disclosures for liability, debarment, suspension, drug free workplace, lobbying, nondiscrimination, and nepotism as required by all grant recipients and subrecipients and defined under 20 CFR 667.200(7).

Comprehensive Monitoring Reports

Based on the WIA reviews that the Regional Office fiscal staff have conducted over the last two years, we feel that the monitoring reports issued by the State's Workforce Compliance and Oversight (WCO) unit were exceptionally written and provided an insightful and comprehensive examination of this program. The reports showcased the monitors' vast knowledge base in both the programmatic and financial requirements.

LWIA #1 – Westco

7. Lack of a Comprehensive One Stop Center

There are five One-Stop centers within this 62 county LWIA. None of these One-Stops yet include co-location of all locally-available mandatory partners, nor are all partners contributing to the common, shared costs of these centers, according to local officials as required under 20 CFR 662.100.

ATTACHMENT IIb

U.S. Department of Labor

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Employment and Training Administration
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230 South Dearborn Street, 6th floor
Chicago, IL 60604-1505

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http://www.doleta.gov/regions/reg05

April 8, 2004

Jim Garner
Secretary
Kansas Department of Human Resources
401 SW Topeka Boulevard
Topeka, KS 66603-3182

SUBJECT: Review of Kansas Farmers & Ranchers NEG (KS-04)

Dear Secretary Garner:

In partnership with the Kansas Department of Human Resources (KDHR), Region V staff recently conducted a review of the Farmers & Ranchers national emergency grant awarded on June 25, 2003.

As you will see in the attached report, our primary concern is the project's low participation rate. We commend KDHR's efforts to provide technical assistance to the program operator, Kansas Legal Services, as it seeks to improve its outreach and recruitment strategy. We are hopeful these actions will help the project better reach its intended target group. Please realize, however, that if enrollments do not increase significantly over the next few months, we will need to discuss staff reductions or other cost-containment measures for the project.

Our review also found two issues requiring follow-up and corrective action. KDHR should submit its corrective action plan to the Regional Office within 30 days of receiving this report.

If you have any questions, please call Frank Wilson at (816) 502-9036.

Sincerely,

Byron Zuidema
Regional Administrator

Attachment

CC: E. Fred Tello, ETA
Shirley Smith, ETA
Douglas Small, ETA
James H. De Coursey III, KDHR
Jenny Moe, KDHR
Roy Coleman, KDHR

1 99

U.S. Department of Labor
Employment and Training Administration

City Center Square
1100 Main, Suite 1050
Kansas City, MO 64105
Phone: 816-502-9000
Fax: 816-502-9001

Kansas Farmers & Ranchers

National Emergency Grant Implementation Review

Grantee:	Kansas Department of Human Resources
Agreement Number:	EM-11437-01-60
Project ID:	KS-04
Project Operator:	Kansas Legal Services
Period of Operations	June 30, 2003 through June 30, 2005
Review Dates:	March 29-31, 2004

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Executive Summary

1. **Enrollment.** The project has 33 participants after eight months of operations. It appears increasingly unlikely that the grant will reach its full-enrollment goal of 175 individuals by December 31.

2. **Expenditures.** As of February 29, the project spent approximately $185,000. Expenditure rates are lower than planned, but disproportionately high when compared to enrollment rates. If enrollments do not increase soon, staff reductions or other significant cost-cutting measures will become necessary.

3. **Performance.** No participants have yet exited the project, and so performance outcomes information is unavailable at this time.

4. **Eligibility.** We found no compliance concerns regarding the Grant Officer's requirement that post-secondary youth must have filed a Schedule F on their Federal tax return in order to be determined eligible.

5. **Mileage Reimbursement Determination.** In two instances, case files did not contain a completed obligations worksheet indicating the distance traveled to training. Corrective action is required.

6. **Possible Duplicate Payment for Mileage Reimbursement.** We found that two married participants each received mileage reimbursement for identical dates of school attendance. KDHR must determine whether the participants traveled separately or whether they commuted together. If the latter, payments to one of these individuals were made in error. Corrective action is required.

7. **Recommendations.** Our report offers recommendations throughout. Implementation of these recommendations is not required, although we believe they merit consideration by the State or program operator, as appropriate.

Background

Grant History

April 11, 2003: The Kansas Department of Human Resources (KDHR, the State) requested $730,965 to serve 175 farmers and ranchers who had either become dislocated from farming or who were transitioning out of farming as their primary occupation.

June 25, 2003: The Department of Labor (the Department) approved the project for up to $730,965 and released an initial increment of $275,284 (FY 03 Advance funds) for immediate use. The approved grant period was June 30, 2003 through June 30, 2005. The Grant Officer's award letter requested a revised implementation plan and budget documents reflecting the amount of the initial funding increment. The letter also stipulated, "Full time secondary youth must have worked for the farm operation after the completion of their secondary education and have filed a Schedule F with their Form 10040 [sic] Federal Income Tax in order to be determined eligible."

July 11, 2003: KDHR provided the documents requested in the award letter.

April 6, 2004: As of this date, the Grant Officer has not yet responded to the State's July 11 correspondence.

Objectives

The review was conducted under the authority of section 183 of the Workforce Investment Act, which authorizes the Secretary of Labor to monitor all recipients of financial assistance under Title I of the Act.

The purpose of the review was to:

- Evaluate whether the project is likely to meet its projections for enrollments, expenditures, and performance outcomes;
- Determine whether expenditures and services comply with the terms of the grant agreement, the Workforce Investment Act and its regulations, and applicable OMB circulars; and
- Assess whether service quality is sufficient to meet performance goals.

Review Activities

Jenny Moe, from the KDHR Workforce Compliance and Oversight Unit, and Frank Wilson, of the Employment and Training Administration (ETA), conducted the review during March 29-31, 2003. Activities included review of 16 participant case files (a 48 percent sample); interviews with project management and staff; and analysis of documents including local policies, time sheets, and management information system reports on enrollments, expenditures, obligations, staffing, and services provided.

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Program Operations

Enrollment

With only 33 participants to date, the project is significantly behind its projected enrollment schedule.

The project enrolled 33 participants as of March 31. At this level it has achieved 38 percent of its enrollment goal for the quarter (88 individuals), and 19 percent of its full-enrollment target (175 individuals by December 31). The program operator, Kansas Legal Services (KLS), attributes the low enrollments to three factors—recent improvements in the farm economy, changes in grant eligibility policy, and recent staff turnover and injury. In spite of these developments, KLS notes the persistent long-term trend in declining numbers of small farm operations (defined as those with sales of less than $500,000 per year).

The State recently provided technical assistance to KLS in the form of peer-to-peer training offered by Iowa Workforce Development, which has an established history of operating projects for dislocated farmers. KLS indicates the training was successful and has given the organization new ideas for improving its targeting and outreach efforts. We commend the State for its technical assistance and acknowledge that these activities will likely improve the project's success in reaching new participants. However, our experience with other farm projects shows that the spring and summer months tend to be the slowest period for new enrollments. Furthermore, the current (first-increment) budget has no resources remaining to pay for radio spots or other kinds of advertising. As a result, we remain concerned about the project's prospects for reaching full enrollment.

Recommendation #1: Given the need for immediate and significant steps to increase project enrollments, and the lack of budget resources for paid advertising, we recommend the State consider using rapid response funds or state administrative funds to sponsor additional outreach efforts.

Recommendation #2: We recommend the State consult with appropriate Regional Office staff before submitting any request for additional funding. This dialog will help the Department ensure that the State's request is reasonable and appropriate, based on the project's costs and enrollment levels.

Expenditures

Although expenditures are lower than anticipated, they are disproportionately high when compared to enrollment levels.

The project spent a cumulative total of $185,268 through February 29, about 67 percent of the planned level for the quarter ending March 31. Although this is well below the anticipated amount of $275,284 through March 31, the expenditures are disproportionately high when compared to enrollments (which are at 38 percent of planned levels). This is not surprising given that most projects with lower-than-planned enrollments must still incur relatively fixed start-up costs for outreach, staffing, supplies, and equipment. At some point, however, the project must take steps to bring staffing levels and other non-participant costs in line with actual enrollment levels and cost-per-participant goals.

Recommendation: KLS should proceed with its plans to improve participant recruitment and need not reduce staffing levels *at this time*. However, if the project fails to make substantial progress in increasing enrollments over the next few months, staff reductions and other cost-containment measures will become necessary.

Budget Variances

Expenditure rates for fixed-cost budget line items are relatively high, while expenditure rates for variable-cost budget line items are much lower.

Again, as one would expect when enrollments are significantly below anticipated levels, spending for budget line items associated with fixed costs is much higher than spending for variable, participant-related costs. The appendix to this report provides detailed information about line item expenditures.

Recommendation: Before developing a second-increment funding request, the State should work closely with KLS to examine line item expenditures so that the new budget can allocate resources according to demonstrated need.

Performance Outcomes

We cannot yet evaluate the project's progress in meeting its performance goals.

No participants had exited at the time of our review, and so we cannot comment on the project's progress in meeting performance goals for entered employment rate and average wage at placement[1].

[1] Because farmers do not earn an hourly wage, and many have net negative incomes as a result of farm debt, the traditional performance indicator for *wage replacement rate* is not used in this grant. Instead, the project has a performance goal of $10.12 per hour for the *average wage at placement*.

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Program Operations

Eligibility of Farm Dependents

The project is compliant with the Department's new eligibility criteria for farm youth.

The project is compliant with the Department's eligibility restriction that "secondary youth" (offspring of eligible farm operators) must have filed a Schedule F under their own name to be determined eligible. In past farm projects operated by KLS we have been concerned about policies used to determine that non-spousal farm dependents were dislocated farmers, and therefore eligible to receive services. The Grant Officer's clarification regarding farm youth eligibility has eliminated these concerns under the current grant.

Support Services

Participant files did not consistently document the process used to determine travel reimbursement obligations.

Files of at least two participants (Krier, Eichman) did not document how KLS determined the amount of mileage reimbursement to be obligated and paid. Although these files, included the standard worksheets used for calculating driving distances, number of days per week requiring travel, and mileage rates, in these instances the case manager did not complete the worksheet.

Required Corrective Action: KDHR must assure the Department that it will work with KLS to provide adequate documentation that amounts obligated and paid for mileage and childcare reimbursements are appropriate, reasonable, and necessary.

The grant may have made overpayments for mileage reimbursement to either or both of two married participants.

We found two married participants (Reynolds and Reynolds) who submitted identical school attendance sheets for the period September 1 through November 30, 2003, and who *each* received mileage reimbursement payments totaling $295 based on these attendance sheets. If these participants traveled to and from training in separate vehicles on every day of attendance, then separate, equal mileage reimbursement payments would be appropriate. However, if the participants commuted together, even occasionally, then some amount of the mileage reimbursement was in error, and one or more overpayments resulted.

Our review could not determine whether the participants traveled together during the months in question, although we do note that one participant (Mr. Reynolds) has received no mileage reimbursement payments for the current semester, while the other participant (Mrs. Reynolds) continues to receive such payments.

Required Corrective Action: KDHR must determine whether KLS made any overpayments to either of these participants and must inform the Department of its findings. If overpayments were made, these funds must be returned to the grant and KDHR must supply documentation to the Department showing the amount of funds returned to the project.

Required Corrective Actions

As discussed previously in this report, two corrective actions are necessary. For ease of reference we have summarized these actions in the section below. KDHR should provide a written corrective action plan to Regional Administrator Byron Zuidema within 30 days of receiving this report.

1. **Documentation for Mileage Reimbursement Calculation.** Files did not always document how the amounts of participant mileage reimbursement were calculated. KDHR must assure the Department that it will work with KLS to provide adequate documentation that amounts paid for mileage and childcare reimbursements are appropriate, reasonable, and necessary.

2. **Possible Overpayments for Travel Reimbursement.** In one instance, two married participants each received mileage reimbursements for travel to classroom training. Given that the training attendance forms indicate identical days of attendance for both participants over a three-month period, it is possible these individuals commuted together, and that one of them received travel reimbursement for costs not incurred. KDHR must determine whether any overpayments were made, and must inform the Department of its findings. If KLS made overpayments, KDHR must return these funds to the grant and must supply documentation of the corrective actions taken.

Appendix
Kansas Farmers & Ranchers NEG
Line Item Expenditures Compared to 1st Increment Budget Amounts
as of February 29, 2004

Budget Line Item	Current Expenditure	1st Increment Budget Amount	Expenditure as % of Amount Available
Staff Salaries	$90,948	$121,544	75%
Fringe Benefits	$18,735	$24,445	77%
Travel – Inside Project Area	$9,469	$9,884	96%
Communications	$3,105	$4,498	69%
Facilities – Rent	$9,161	$13,442	68%
Office Supplies	$6,422	$3,285	195%
Testing & Instructional Materials	$4,341	$14,446	30%
Equipment – Purchase	$3,270	$1,977	165%
Tuition Payments/ITAs	$12,172	$45,619	27%
OJT Reimbursements	$0	$5,322	0%
Support Services[2]	$4,433	$24,330	18%
Other[3]	$4,846	$3,762	128%

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Employment and Training Administration
REGION V - The Great Heartland

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April 8, 2004

MEMORANDUM FOR: E. Fred Tello
Grant Officer
Office of Grants and Contracts Management

and

Shirley M. Smith
Administrator
Office of National Response

FROM: Byron Zuidema
Regional Administrator

SUBJECT: Review of Kansas Farmers & Ranchers NEG (KS-04)

Region V staff recently conducted an on-site review of the national emergency grant (NEG) listed above. Attached is a copy of our findings report. If you should have any questions, please call Frank Wilson at (816) 502-9036.

cc: Doug Small

ATTACHMENT III

Commerce disagrees with the conclusion that federal reviews reflect an ineffective monitoring program. The Legislative Post Audit (LPA) report states, "The State's monitoring efforts for workforce development programs – a key part of the State's administrative responsibilities – aren't being carried out well, or sometimes at all," is misleading. Throughout the report LPA makes reference to several reviews conducted by the United States Department of Labor (USDOL). We would refer LPA to USDOL's review of July 2, 2003 (Attachment IIa), page 7, which states as follows:

> "...Based on the WIA review that the Regional Office fiscal staff have conducted over the last two years, we feel that the monitoring reports issued by the State's Workforce Compliance and Oversight (WCO) unit were exceptionally written and provided an insightful and comprehensive examination of this program. The reports showcased the monitors' vast knowledge base in both the programmatic and financial requirements..."

Given USDOL's own assessment of the State's monitoring unit's (WCO) abilities, that the reports are exceptionally written and provided comprehensive examination of the program, we question the validity of the comment that "...the State's monitoring efforts... - aren't being carried out well." While we acknowledge there was a period of time at Kansas Department of Human Resources (KDHR) when the monitoring responsibilities were disengaged, Commerce would request LPA give some consideration toward rewording the banner statement to accurately reflect USDOL's support of the WCO unit's abilities. Monitoring functions are indeed being carried out well, when fully engaged. In addition, as outlined below, Commerce took an immediate and aggressive stance regarding the renewal of monitoring when the programs were moved from KDHR to Commerce.

Further, WCO's file documentation shows monitoring reviews were continuing throughout the spring of 2003, and reports were completed and submitted for dissemination to KDHR management. Please note that at no time were Local Area Monitoring systems responsibilities disengaged, and, additionally, all State and local level OMB single audit responsibilities were arranged, completed, and filed in compliance with federal grant management responsibilities. It should be noted there were no questioned or disallowed costs associated with the federal mandated independent audits at both the State and Local area for last Program Year (July 1, 2005 – June 30, 2006).

Upon being transferred to Commerce, WCO has been actively and fully engaged in the monitoring and oversight process. File documentation is available demonstrating the dissemination of monitoring reports with appropriate follow-up reviews since July 4, 2004. These activities include:

1. Although not required to do so, in July 2004 Commerce began the process of competitively procuring the services of an independent accounting firm to conduct a comprehensive assessment of employment and training policies, procedures and systems at both the state and local level. WCO served as Commerce's liaison and project

manager. The resulting report contained no compliance findings related to monitoring, and states, "...We reviewed monitoring files and the work appears to be done in a timely manner, fiscal and administrative procedures are covered, reports are prepared, and there is a formal resolution process." (Wipfli Young, June 30, 2005, page 36).

2. All policies related to monitoring, corrective action, audit, audit resolution have been updated and posted on Commerce's website.

3. WCO provides staff support to a Corrective Action Board comprised of workforce development program managers which collectively review and work toward the resolution of state and local level performance and program findings.

4. WCO prepares an annual monitoring schedule of its activities and is generating and disseminating reports.

5. WCO sponsored a work shop for Local Area fiscal staff in preparation of the annual independent audits. In addition, training and technical assistance have been provided to field staff as requested.

Specifically, as it relates to the monitoring of the annual contract with Kansas Legal Services (KLS), the state has always participated jointly with USDOL in their review of National Emergency Grant (NEG) funds. However, the primary responsibility for issuing the monitoring reports of the U.S. Secretary of Labor's Discretionary funds (NEG) resides with USDOL. The last time USDOL elected to review NEG in Kansas was in April 2004, not 2003 as stated in the report (Attachment IIb). State monitoring staff participated in the review. For the current program year, KLS funding has been changed from NEG to WIA – Rapid Response funds, and WCO will schedule and complete a review of the KLS contract and program services.

KANSAS BOARD OF REGENTS

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August 30, 2006

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LEGISLATIVE DIVISION
OF POST AUDIT

Barb Hinton, Director
Legislative Post Audit
800 SW Jackson, Suite 1200
Topeka, KS 66612-2212

Dear Ms. Hinton:

Thank you for the opportunity to respond to the conclusions and recommendations in the Legislative Post Audit report and specifically Question 4: *What Programs in Kansas Meet the Definition of Workforce Development Adopted by the Joint Committee on Economic Development in 2005, and What Level of Coordination Exists for Those Programs?* As you have no doubt discovered after these last 22 weeks, the Kansas workforce development system is very complicated with services delivered by a number of agencies and institutions. Using my involvement in workforce development and leadership experience at the postsecondary level as the framework for a response, I respectfully submit these comments to the report.

The report's description of the Associate in Applied Science Degree does not fully explain the articulation potential of the degree. Traditionally, the A.A.S. degree was solely occupational and the coursework was not transferable to a university; however, the opportunities for articulation of the degree exist at the majority of Regents' universities. Our expectation is that articulation opportunities for students completing an A.A.S. degree will continue to increase.

Additionally, the report seems to advance the notion that occupational degrees are confined to the two-year level. However, many occupational degrees also exist at the Baccalaureate level within the Regents system. One example is the Bachelor of Science in Nursing (BSN), which prepares students to become Registered Nurses. In fact, a recent Board of Regents workforce development initiative to produce 25% more Registered Nurses relies on all sectors of the Regents system (22 public postsecondary Nursing programs) working together to achieve this important goal.

One conclusion of the report stresses the need for improved coordination in the system. This objective is especially challenging because as the report states, "*...no single entity has the authority on a Statewide basis to direct the types of changes that will be needed.*" However, significant coordination currently exists between the Board of Regents and the Department of Commerce. Our liaison to Commerce has a dual-role connecting education and training to the postsecondary system, while leading the Career and Technical Education Unit of the Kansas Board of Regents. We are encouraged by the progress made in the integrated delivery of direct training to business by our postsecondary institutions, and we expect this coordination to continue as we meet the workforce development challenges in Kansas.

I truly appreciate all your efforts to gather and synthesize information these past months and am grateful for the opportunity to respond to the report.

Sincerely,

Reginald L. Robinson
President and CEO

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Salina Area Chamber of Commerce
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LEGISLATIVE DIVISION
OF POST AUDIT

August 28, 2006

Barb Hinton, Director
Legislative Post Audit
800 SW Jackson, Suite 1200
Topeka, Kansas 66612-2212

Dear Ms. Hinton,

In reviewing the draft report on Workforce Development by Legislative Post Audit, I compliment you and your staff for the expanse of work done. It is my understanding that your staff spent five and one-half months gathering and analyzing data and information.

Some of the recommendations made were good; others showed some lack of understanding as to responsibilities and oversight of the federal WIA program. I fully believe this is quite understandable given the nature of this very complex program.

In review, the report recommendations regarding administration of Local Area's III and IV are, I believe, correct. These areas should be self governed and administered locally and separately from the State. Therefore, no question as to oversight conflicts should ever exist. Within these two areas, it is my understanding that there is now a clear direction to transition administration to the local area, and progress is being made toward achieving this desired structure.

Other references in the report indicate that the WNK Board should have oversight of workforce development. While a more centralized governance system has its merits, the federal legislation clearly indicates that the state board is advisory and that the control rests with local area boards, LWIBs and LCEOs. Some states have gone a different route with regard to governance by restructuring their entire workforce development systems at the state level and blending with the federal. Kansas did not choose this path. Rather, the Kansas direction has been to slowly evolve into a workable system using existing state agencies while encouraging and empowering local areas to provide better systems and service.

As to the future direction of the WNK Board, we have spent a significant amount of time in moving the board to long range planning and advocacy for workforce development in Kansas. Over the next year, the Board will play a much more visible role in leading efforts to improve the quantity and quality of the Kansas workforce by focusing on sound research and the joining of supply and demand in the system.

Thank you for the opportunity to respond to your draft report.

Sincerely,

Gerald Cook
Chair
Workforce Network of Kansas Board

Area I Workforce Investment Board CEO

Local Area 1 Administrative Office
1922 Main Street
Great Bend, KS 67530-2550
Phone: 620-792-7032 Toll-Free: 1-866-828-8887

Earnest A. Lehman
LWIB Chair

Larry Sharp
CEO Chair

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LEGISLATIVE DIVISION OF POST AUDIT

August 14, 2006

Ms. Barbara Hinton
Legislative Division of Post Audit
800 Southwest Jackson Street, Suite 1200
Topeka, Kansas 66612-2212

Dear Ms. Hinton:

Thank you for providing me and our Board Chair, Earnie Lehman an opportunity to review the draft Legislative Post Audit report concerning Workforce Development and the use of Workforce Investment Act Moneys in Kansas. We have discussed the report in general, and with respect to Local Area I. We have collaborated in developing this response to the recommendations contained in the report pertaining to Local Area I.

Question 1: Does the Administrative Structure Kansas Has Established for the Workforce Investment Act Comply with the Requirements of the Act?

Problem noted at the Local Level: "…We found that Local Area 1 lacks at least two required partners, including representatives from the Trade Adjustment Assistance and Vocational Rehabilitation programs."

Action Taken: The Local Area I Board has obtained Memorandums of Understanding from the Trade Adjustment Assistance Act and Vocational Rehabilitation partners. Currently, all of the mandated partners operating in the local area have signed MOUs with the Board.

Question 3: What Types of Contracts Are in Place To Provide Training or Job-Assistance Services, What Are Their Terms, and have They Been Awarded Competitively?

LPA Recommendation: "To ensure that all its contracts are legally binding and current, officials in Local Area I need to complete all requirements for officially renewing or rebidding all contracts they have that are currently expired."

Action Taken: The Local Area I Board has obtained signatures on contract modifications, extending the contract dates for each contract that was renewed by action of the Board on June 24, 2005. Contracts for current service providers are active and have an expiration date of June 30, 2007. It is the intention of the Local Area Board to create new RFPs and once again open up competition for WIA IB provider services for the Program Year beginning July 1, 2007.

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Further Comments

Since 2000, the Workforce Investment Act (WIA) and its interpretative federal rules and regulations have emerged as both innovative and complex. Kansas Local Area I has progressively transitioned from the operational concepts and mandates of the former Job Training Partnership Act to those of WIA while seamlessly undertaking the overarching mission of providing services to area individuals with employment needs and assisting employers with their workforce needs. This transition has taken place with state and federal guidance and in response to the interpretations of WIA by federal auditors.

Local Area I serves 62 counties covering nearly 55,000 square miles. There is not a large population center or community of any size that, by itself, could house a comprehensive one-stop center serving the entire area. Accordingly, our comprehensive One-Stop Center in Great Bend is only a beginning. We already have functioning, though not fully comprehensive One-Stop Centers in Hutchinson, in collaboration with Hutchinson Community College, and in Garden City, working with the Garden City Community College. The Local Area I Board is committed to making these Centers full, comprehensive One-Stops. We are also working to establish Comprehensive One-Stop Centers in Salina and Hays. Additional affiliate sites will be located in a number of communities throughout Local Area I.

Most importantly, the Local Area I Board has taken action to increase the numbers of participants served with Workforce Investment Act funding. The Board has recently implemented modifications to service provider contracts setting WIA IB participant targets for the current program year – State Fiscal Year 2007 totaling 1,000, nearly double the 568 participants served in State Fiscal Year 2006. The Board is also working to draw more employers and job-seekers to the system through an enhanced marketing effort, including a series of employer roundtables to be held in the fall.

The Local Area I Board believes it is the most effective in the Kansas workforce system, partly thanks to robust and active committees and partly thanks to an emphasis on making effective use of training opportunities such as the annual Kansas Workforce Summit. The Board meets and conducts an annual planning retreat immediately following the Summit.

Thank you again for the thorough review of our performance and processes, and for the opportunity to share these comments prior to the issuance of your final report.

Sincerely,

Robert L. Dalke

Robert L. Dalke
Executive Director
Local Area I Workforce Investment Board

Cc: Earnie Lehman – Chair, Local Area I Workforce Investment Board

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August 11, 2006

Ms. Barbara J. Hinton
Legislative Post Auditor
Legislative Division of Post Audit
800 S.W. Jackson, Suite 1200
Topeka, KS 66612-2212

Dear Ms. Hinton:

Thank you for the opportunity to review and comment on the draft report, *Workforce Development: Reviewing the Use of Workforce Investment Act Moneys in Kansas.*

We believe that your report is an accurate description of the primary challenges facing Local Area III. The report cites a number of shortcomings in our local area, which we acknowledge. While none of the report's recommendations were directed at our local area, we recognize that the Chief Elected Officials Board, Workforce Investment Board, and staff all share responsibility for correcting those deficiencies. We believe that we have made significant process toward resolving these shortcomings, and will continue to work to address them.

Thank you again for the opportunity to review the draft report. We also wish to thank your staff for being courteous, receptive, and professional in their discussions with Area III staff.

Sincerely,

David Huston
Chair, LA III Workforce Investment Board

Scott Anglemyer
Executive Director

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WORKFORCE
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August 14, 2006

Ms. Barbara J. Hinton
Legislative Division of Post Audit
800 SW Jackson Street, Suite 1200
Topeka KS 66612-2212

Dear Ms. Hinton,

On behalf of the Workforce Alliance of South Central Kansas and the Chief Elected Officials Board, thank you for the opportunity to provide comments on the draft post audit report, *"Workforce Development: Reviewing the Use of Workforce Investment Act Moneys in Kansas"*. It is a complex issue as the report details, and you and your staff did a commendable job in assembling the tremendous amount of information from so many sources. The staff and the Board of Directors of the Workforce Alliance are committed to continuous improvement of the programs we manage and the workforce centers we operate. The information in the report will be a valuable part of that process.

The first issue we would like to comment on is the recommendation that the elected officials in Local Area IV change the membership on the Chief Elected Officials Board. Based on the modifications to the Local Area IV Chief Elected Officials Board Agreement submitted in 2004, we feel that Local Area IV is in compliance with both the letter and spirit of the Workforce Investment Act. The only voting members for all Workforce Investment Act business are the elected officials from Local Area IV. The inclusion of economic development professionals as non-voting members helps to ensure that workforce polices in Local Area IV complement and support regional economic development strategies. Also, as Harvey and Reno counties are part of the labor market in South Central Kansas, having officials from these counties involved in deliberations increases the level of coordination and cooperation between Local Areas I and IV.

The report also references the increased cost associated with the relocation of the Wichita Workforce Center. Local Area IV was cited by the United States Department of Labor in 2004 for not having a comprehensive one-stop workforce center. In response, the Workforce Alliance conducted an analysis of the current facility at 402 East Second, which led to the determination that additional space was required to accommodate the partners and programs needed to establish a comprehensive one-stop workforce center. The process was well documented, and included participation and review by staff of the Kansas Department of Commerce. These records are available for inspection upon request.

150 N. Main, Suite 200 • Wichita, KS 67202 • Phone 316-771-6600 • Fax 316-771-6690

While the cost has increased by moving the Wichita Workforce Center to 150 North Main, the new location allows us to bring more partners on-site such as the Wichita Area Technical College, the Workforce Investment Act Youth programs, and additional staff from the Kansas Departments of Commerce and Social and Rehabilitation Services. Staff from Sedgwick County and the United States Department of Commerce will also be moving into the Wichita Center this month. The base rent per square foot for the facility is lower than the average cost of Class B office space in Wichita as cited in a recent study by Grubb and Ellis. We also are leveraging funds from the federal, state and local levels to share the costs of the facility, meeting the intent of the Act for a comprehensive one-stop workforce center to serve both employers and job seekers.

Since the Wichita Workforce Center opened in February 2006, the number of job seekers accessing services has increased dramatically. At the previous location, 402 East Second, the average number of job seekers served was 300-400 per week. The most recent report indicates that over 1,000 job seekers per week are utilizing services from the Wichita Center. It should also be noted that the ability to serve employers has been augmented since moving to the new facility, and this is the primary intent of the Workforce Investment Act.

The Workforce Investment Act overtly moved beyond the previous federal legislation, the Job Training Partnership Act, in structuring the public workforce system as business driven. In addition to holding job fairs on-site (which could not be done at the previous location), many employers are using the Wichita Center to perform assessments for applicants, conduct job interviews and hold orientations for new employees. Companies such as Cessna Aircraft, Union Pacific Railroad, Cox Communications, NuComm International and others have all been on-site receiving employment services since February. Clearly the relocation of the Wichita Workforce Center has improved the services to both employers and job seekers.

In reference to the recommendation on the performance payment provision in the contract with Arbor Education and Training, the Workforce Alliance will consult with officials from the United States Department of Labor to ensure the contract is in compliance with the Workforce Investment Act.

Again, thank you for the opportunity to comment on the draft report. It is our desire that the report will lead to further improvements in the workforce system in Kansas. Please do not hesitate to contact me if we can be of further assistance.

Sincerely,

Keith Lawing, Executive Director
Workforce Alliance of South Central Kansas

Cc: Commissioner Will Carpenter, REAP Economic Development Committee, Chair
Mike Germann, Workforce Alliance of South Central Kansas, Chair

LWIB SDA V
P.O. Box 381
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LEGISLATIVE DIVISION OF POST AUDIT

August 15, 2006

Ms. Barbara J. Hinton
Legislative Division of Post Audit
800 SW Jackson Street, Suite 1200
Topeka, KS 66612-2212

Dear Ms. Hinton,

On behalf of the Local Workforce Investment Board of SDA V and the Chief Elected Officials Board (LA V) we would like to thank you for the opportunity to provide comments to the draft audit of workforce development programs in LA V of Kansas. We felt the integrity of the report in reference to LA V is precise and is highly regarded with such a multifaceted subject.

The first issue we would like to comment on is the conflict caused by the Department's dual role of operating our local area while also being responsible for monitoring the area. The LA V board has discussed this same concern. As Chair, I will recommend to the board that we look at options of becoming the administrative entity for the Local Area programs or request for proposals (RFP) for another entity to take over this function. I have visited with Deputy Secretary Rae Anne Davis and she has suggested that the Department could help LA V with drafting an RFP for another entity to take over this function. We hope to take action of this recommendation at the next LA V board meeting on September 20, 2006.

The second issue we would like to make comment on is concerning the lack of a veteran's employment representative in LA V. Michael Hoover, Asst. Regional Director has advised LA V that the Department has two veteran employment representatives. Between the two, the veteran employment representatives cover the 17 county areas.

The third issue we would like to comment on is the dollars deposited into other state funds collected from subleasing rents. We discovered this was going on in March of 2006 during the process of reviewing the Pittsburg memorandum of understandings between the One-Stop partners. The LA V board questioned Ron Donner of where the funds are deposited. Ron told the LA V board the money is deposited into a state account. Ron stated this is going on with several different Workforce Development Centers subleases/rents received throughout the State. The Department has not provided the board with an amount of the LA V money deposited in the state account nor has advised us of any dollars returned to LA V.

The fourth issue we would like to make comment on is in how much the Department of Commerce is paid. The LA V board has requested proposed budgets for the PY on multiple occasions, and then to follow up with monthly expenditure reports. The Department of Commerce has promised to provide LA V a proposed budget once

1-101

USDOL has released PY 2006 allocations. Once received from the Department, the LA V board will review for approval.

The LA V does discern that we have allowed the deficiencies noted to go on. We hope that in addressing and taking action concerning the administrative entity issue we will accomplish the monitoring, budget and contract concerns. The LA V board desires to work harder at our responsibilities and at the task of delivering continuous improvement of the employment and training services. Again, we would like to thank you for the work you have done in reviewing the use of Workforce Investment Act moneys in Kansas. Please feel free to contact us if we can be of further assistance.

Renea Cavaness

Renea Cavaness, Chair
LWIB SDA V of Kansas

APPENDIX D

Additional Information

During the presentation of this audit to the Legislative Post Audit Committee on September 6, 2006, various Committee members asked us to provide additional information related to the audit. That information is included in this appendix.

Legislative Post Audit List of Questions and Answers Developed for the Joint Economic Development Committee Based on Questions Asked at the Legislative Post Audit Committee Meeting

At the Committee's September 6, 2006, meeting, we presented the performance audit, *Workforce Development: Reviewing the Use of Workforce Investment Act Moneys in Kansas*. To assist the Joint Committee, we've developed the following list of questions and answers based on questions asked at the recent Legislative Post Audit Committee meeting.

1. Who is involved in workforce development at the State level and what does it look like?

Figure 1 on page 4 shows how Kansas' workforce development system currently is organized.

2. The Workforce Investment Act requires a comprehensive One-Stop center in each local workforce investment area. Which One-Stop centers aren't fully comprehensive and what causes them to not be comprehensive?

During our performance audit, we found that each of the local areas had a physical One-Stop center location. However, Local Areas 1 (western Kansas), 3 (Kansas City), and 5 (southeast Kansas) aren't fully comprehensive because one or more of the federally funded programs mandated to provide services isn't represented–either physically, technologically, or through cross-trained staff.

In ***Figure 2 on*** page 5, we list the federally funded programs that are required to make their services available through a One-Stop delivery system, and we indicate whether and how those programs have made their services available. ***Figure 2*** also shows whether the area's local workforce investment board has a memorandum of understanding and cost-sharing agreement with each of the programs, as required by the Workforce Investment Act.

In September 2006, we followed-up with U.S. Department of Labor officials about whether they had more recent reviews of Kansas' One-Stop centers. (Federal reviews conducted during calendar year 2005 showed that, with the exception of local area 2, none of the local areas had comprehensive One-Stop centers.) U.S. Department of Labor officials told us that since 2005, they've not conducted follow-up reviews in Local Areas 1, 4, and 5 to determine whether comprehensive One-Stops Centers are in place. However, they told us they had conducted a review of Local Area 3 in August 2006. That August 2006 review found that Area 3 lacked an on-site vocational rehabilitation representative–one of the programs mandated to provide services.

Our review of Local Area 4's One-Stop center showed that all mandated partner programs were making services available.

3. ***What are the potential problems with not having fully comprehensive One-Stop centers?***

Without fully comprehensive One-Stop centers, the system remains what it was before the Workforce Investment Act was implemented which, as described in recent GAO reports, was a fragmented and overlapping job training system. The Act was meant to streamline employment and training services through better integration at the local level. To do this, it required federally-funded workforce programs administered by state and local entities provide services in One-Stop centers.

In addition to mandating these programs to partner in One-Stops, the Act created a sequence for how services are provided to adults and dislocated job seekers. To the extent federal law allows–in addition to providing their programs' specific services–each mandated partner must help provide certain "core" services available to all job seekers.

Figure 3 on page 6 shows the order in which services are provided at One-Stop centers. In general, core services are provided first, then intensive services, training services, and then finally, services from other mandated partner programs.

Recent GAO reports have pointed out it's important to recognize that, although the Act requires One-Stop centers, it didn't provide specific instructions on how the programs would integrate once they were located in the One-Stop centers. These recent reports show that One-Stop centers in other states use three basic strategies to integrate program services:

- **ensuring easy access to services.** Providing a clear path from one program to another within the One-Stop center, having staff personally introduce the job seeker to referred program staff, and including non-mandated partners in the One-Stop center can improve job seeker access to those services. For example Temporary Assistance to Needy Families (TANF) isn't a mandated partner, but in Kansas, some TANF staff are located in One-Stop centers.

- **educating program staff about all one-stop services.** This is commonly called "cross-training" staff, and it can help program staff make appropriate referrals between programs.

- **consolidating procedures/sharing data to avoid duplication.** For example, consolidating intake or case-management processes reduces program staff's duplication of effort and job seekers having to go through multiple processes.

4. The Department of Commerce reported it had spent 2.8% on administration, while the performance audit report showed higher percentages spent on administration. Why is that?

Administration as a Percent of Total Spending - Department of Commerce

1. In response to our audit report, Department of Commerce officials reported they had spent 2.8% of the Workforce Investment Act funds available on administration. The Act allows the Department to spend up to 5%. (Calculation shown in column 1 below.)

2. We reported that, of all the Workforce Investment Act funds the Department spent during fiscal years 2004 and 2005, 44% was spent on administration. We noted that calculation could be misleading because the Department passed on a significant portion of the funding it received (that it could have kept and spent at the State level) to local areas. (Calculation shown in column 2 below.)

3. We also reported that when funds the Department received and passed on to local level were counted toward the Department of Commerce's total expenditures, its percent spent on administration would have been an average of 22% for fiscal years 2004 and 2005. (Calculation shown in column 3 below.)

Administrative spending as a % of Total Funding (Current State Fiscal Year)	1	Administrative spending as a % of Total Spending (FY 04 & 05)	2	3
Total Funding	$25 million	**Total** Expenditures -	$3.89 million	$7.86 million
Administrative Spending	$700,000	**Administrative** Spending -	$1.72 million	$1.72 million
% of Funding spent on Administration	2.8%	% spent on Administration	44%	22%

1-10-06

Legislature of Kansas
Legislative Division of Post Audit

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January 29, 2007

To: Members, Legislative Post Audit Committee

Representative Peggy Mast, Chair	Senator Nick Jordan, Vice Chair
Representative Tom Burroughs	Senator Les Donovan
Representative John Grange	Senator Anthony Hensley
Representative Virgil Peck Jr.	Senator Derek Schmidt
Representative Tom Sawyer	Senator Chris Steineger

This report contains the findings, conclusions, and recommendations from our completed performance audit, *Department of Commerce: Personnel Practices Related to Employees in the Divisions of Business and Workforce Development.*

The report includes a recommendation for the Department of Administration to clarify the steps agencies must take to competitively fill promotional opportunities. It also includes several recommendations for the Department of Commerce, including recommending that the Department follow guidance from the Division of Personnel Services when using reallocation actions to assign new duties and responsibilities. In addition, we recommended that the Department establish priority outcomes for all employees and that it evaluate employees at least annually, and that it seek approval from the Division of Personnel Services before granting retroactive pay beyond the six pay periods allowed by State regulations.

We would be happy to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other State officials.

Barbara J. Hinton

Barbara J. Hinton
Legislative Post Auditor

Economic Development & Tourism
Date: 2-28-07
Attachment # 2-1

READER'S GUIDE

Get the Big Picture

Read these Sections and Features:

1. **Executive Summary** - an overview of the questions we asked and the answers we found.
2. **Conclusion** and **Recommendations -** are referenced in the Executive Summary and appear in a box after each question in the report.
3. **Agency Response** - also referenced in the Executive Summary and is the last Appendix.

Helpful Tools for Getting to the Detail

- In most cases, an "**At a Glance**" description of the agency or department appears within the first few pages of the main report.
- **Side Headings** point out key issues and findings.
- **Charts/Tables** may be found throughout the report, and help provide a picture of what we found.
- **Narrative text boxes** can highlight interesting information, or provide detailed examples of problems we found.
- **Appendices** may include additional supporting documentation, along with the audit **Scope Statement** and **Agency Response(s)**.

Legislative Division of Post Audit
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Web: www.kslegislature.org/postaudit

2-2

EXECUTIVE SUMMARY
LEGISLATIVE DIVISION OF POST AUDIT

Overview of the Reorganization of Workforce Development Programs And the Kansas Civil Service Act

Executive Reorganization Order 31 moved workforce development programs from the Department of Labor to the Department of Commerce. *In total, 300 employees were transferred from the Department of Labor. The stated purpose of the reorganization was to integrate the State's workforce development system. Employees transferred from the Department of Labor were to retain all retirement benefits and leave balances and rights accrued or vested before the transfer.* .... page 3

The Kansas Civil Service Act requires State employees to be provided a fair and equal opportunity for public service. *The law mandates that all personnel actions be based on merit principles, which means employees should be chosen based on the knowledge, skills, and abilities to perform the work that's required. The provisions of the Civil Service Act generally apply only to classified employees, which was the focus of this audit.* .... page 5

The Act and related administrative regulations create a number of requirements to ensure that personnel practices involving classified employees are fair. These requirements include, but aren't limited to, giving public notice of vacancies and basing hiring and promotions on merit principles. The Division of Personnel Services is responsible for administering the Kansas Civil Services Act, but in recent years it has significantly cut back on its oversight of State agencies' personnel practices.

Question 1: What Has Happened to the People and Positions Transferred From the Department of Labor To the Department of Commerce?

Most people transferred from the Department of Labor still were working for the Department of Commerce. *As of October 2006, 217 of the 300 transferred employees still were with the Department of Commerce, and 83 of the transferred employees (28%) had left the agency. Of those no longer with the Department, 39 voluntarily resigned, 33 retired, 8 transferred to another State agency, 1 was terminated, and 2 died.* .... page 7

We were able to contact 37 of the 83 employees who left. About three-fourths of them indicated they were dissatisfied with the Department in some way when they left. They cited a hostile work environment, not

The Department didn't fully comply with personnel requirements and best practices in four areas. *The problems we identified related to the following:*

.... page 15

- ***retroactive pay***. *When an employee's position is reclassified to better reflect the employee's current job duties or new job duties, regulations allow State agencies to pay that employee retroactive pay for up to six pay periods. The Department paid two employees for a total of 21 pay periods or 15 pay periods beyond what's allowed by State regulation, resulting in them receiving about $4,300 and $11,500 more than regulations allow.*

- ***performance review processes***. *Regulations require State agencies to establish and implement a performance review system and rate each classified employee's performance annually. For five employees in our sample, priority outcomes hadn't been established at the beginning of their performance rating period. In addition, six employees hadn't received an annual performance rating.*

- ***the use of position reallocations for promotions***. *State regulations allow agencies—through the use of position reallocations—to upgrade existing positions and promote certain employees into those positions without competition. According to guidance issued by the Division of Personnel Services, reallocation actions are allowable when an employee has taken on responsibilities of a higher-level job over time, or when an agency has begun a new initiative that involves assigning additional work and it's logical to assign that work to a particular employee because the duties are similar to the duties they already have. For reallocation actions involving two Department employees, it was clear the new duties they were given were very different from the ones they had previously performed. These promotions resulted in annual salary increases of about $11,000 and $13,000 for these two employees.*

  Although vacancies and new positions must be filled through a competitive process, State law doesn't require promotional opportunities—such as upward reallocations—to be posted as available to agencies' current employees. In the two cases described above, by reallocating positions that were occupied by State employees—and then promoting the incumbent employee into the newly reclassified positions—the Department was able to fill the positions without giving other employees the opportunity to compete for the promotions.

- ***reallocation of information technology staff without getting proper approval***. *Since 1993, State agencies have been required to get approval from the Division of Personnel Services before reallocating information technology positions. The Department didn't get approval from the Division of Personnel Services before reallocating a group of 10 information technology positions.*

In its response to a draft copy of the report, the Department of Commerce commented on what it cited as two central issues: the lack of clarity in State regulations regarding certain promotions, and our survey of Department employees. Regarding the lack-of-clarity issue, the Department indicated it was up to the Department of Administration and the Legislature to address that issue. In regard to the survey of employees, the Department expressed several concerns having to do with using the survey as the basis for our findings. [That survey was used to obtain employee opinions about the Department's handling of personnel actions. Our findings regarding the Department's actual compliance with laws, regulations, and best practices came from our review of personnel files for a sample of personnel transactions.]

In its response, the Department of Administration stated that the Division of Personnel Services would consult with the State's human resource community and work in partnership to thoroughly review the statutes and regulations in response to our recommendation that the Department clarify the steps agencies must take to competitively fill promotional opportunities.

This audit was conducted by Laurel Murdie, Levi Bowles, Brad Hoff, Amy Thompson, and Ivan Williams. Leo Hafner was the audit manager. If you need any additional information about the audit's findings, please contact Laurel at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call us at (785) 296-3792, or contact us via the Internet at LPA@lpa.state.ks.us.

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Department of Commerce: Personnel Practices Related to Employees in the Divisions of Business and Workforce Development

In January 2004, the Governor issued Executive Order 31 abolishing the Division of Employment and Training within the Department of Human Resources (now the Department of Labor), and moving all officers and employees of that Division to the Department of Commerce.

Recently legislators have become concerned about reports they've heard from current and former employees that the Department of Commerce is forcing out long-time employees who have knowledge of workforce training programs, and replacing them at higher salaries with new employees who have much less experience with these types of programs.

Some of the specific information they were interested in: the number of transferred employees who've left the Department, why they left, who replaced them, and how the experience and salary levels of the new employees compare with that of the employees they replaced. They also wanted to know whether the Department was following State laws and regulations governing personnel transactions as they relate to these or other employees within the Divisions of Business and Workforce Development.

This performance audit answers the following questions:

1. **What has happened to the people and positions transferred from the Department of Labor to the Department of Commerce?**

2. **Has the Department of Commerce followed statutory and regulatory requirements and best practices for personnel actions for employees in the Divisions of Business and Workforce Development?**

To answer these questions, we reviewed personnel data from the Statewide Human Resources and Payroll (SHaRP) System, personnel files at the Department of Commerce, and laws, regulations, and best practices for personnel actions. We also interviewed officials from the Departments of Labor and Commerce, and all available Department of Labor employees who left the Department of Commerce once transferred there.

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We compared the organizational structure of the workforce development programs operated by these two Departments. In addition, we reviewed a sample of personnel actions at the Department of Commerce, including hires, rehires, promotions, reallocations, transfers, terminations, grievances, grievance appeals, evaluations, and evaluation appeals. Finally, we surveyed all current Department of Commerce employees to get their opinions about the Department's personnel practices.

A copy of the scope statement for this audit approved by the Legislative Post Audit Committee is included in ***Appendix A***.

In conducting this audit, we followed all applicable government auditing standards. Our findings begin on page 7, following a brief overview.

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Overview of the Reorganization of Workforce Development Programs and the Kansas Civil Service Act

Executive Reorganization Order 31 Moved Workforce Development Programs from the Department of Labor To the Department of Commerce

Effective July 2004, the reorganization order moved all workforce development programs (except unemployment insurance) from the Department of Labor to the Department of Commerce. As shown in ***Figure OV-1*** on the next page, 18 workforce development programs were transferred to the Department of Commerce.

In total, 300 employees were transferred from the Department of Labor. In all, 259 employees were transferred in June 2004, and 41 additional employees were transferred in July 2005. Most employees from the Department of Labor were placed in a Division within the Department of Commerce's Business Development Division, but a few were placed in various administrative areas, such as legal, fiscal, and human resources. Before the transfer, the Business Development Division had only 28 full-time-equivalent (FTE) employees.

In 2006, the Department of Commerce created a new Deputy Secretary position for overseeing workforce development programs. Currently, that Division is alloted 222.5 FTE, and includes most of the employees who initially had transferred from the Department of Labor.

The stated purpose of the reorganization was to integrate the State's workforce development system. In addition, Kansas' current Strategic Plan for the Workforce Investment and Wagner-Peyser Acts states that this consolidated system would do the following:

- establish a single point of contact for businesses to promote accountability and efficiency in State government.
- create a demand-driven workforce development system to address the needs of new and existing Kansas businesses for a skilled workforce.
- integrate workforce development programs to maximize and leverage resources available to promote job creation, attraction, and retention.
- ensure all Kansans have access to training and employment opportunities that are the right match for their skills and preferences.

Employees transferred from the Department of Labor were to retain all retirement benefits and leave balances and rights accrued or vested before the transfer. In addition, the reorganization order stated that any subsequent transfers, layoffs, or abolition of classified service positions would be made in accordance with the Kansas Civil Service Act and any rules and regulations related to the Act.

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OV-1
Workforce Development Programs Transferred from the Department of Labor to the Department of Commerce Funding, FY 2006

Program Name and Description	FY 2006 Funding (all federal unless footnoted)
Disabled Veterans Outreach Program (DVOP): Provides intensive employment services to disabled and other eligible veterans who are economically or educationally disadvantaged.	$911,000
Federal Bonding Program: Allows employers to apply for fidelity bonding insurance to indemnify business for loss of money/property sustained through dishonest acts of employees.	(a)
Foreign Labor Certification: Requires employers to provide documentation that they recruited for qualified, able and available U.S. workers before seeking foreign workers for jobs.	$94,983
Local Veterans Employment Representative (LVER) Program: Encourages employers to hire veterans and generally assist veterans in gaining and retaining employment.	$696,000
Migrant & Seasonal Farm Workers (MSFW): Offers these workers the full range of employment services, benefits, and protections. Funded through the Wagner-Peyser Act.	(a)
Neighborhood Improvement Youth Employment Act (NIYEA): Provides employment opportunities for youth by paying for labor and costs associated with repairing, maintaining, and renovating community facilities. Funding comes from the Workforce Investment Act.	$100,000 (b)
Older Kansans Employment Program (OKEP): Provides Kansans 55 and older with an employment placement service.	$239,430 (c)
Re-employment Services Program: Increases quality and quantity of labor exchange services to unemployment insurance claimants. Funded through the Wagner-Peyser Act.	$406,720
Registered Apprenticeship Program: Provides full-time employment with supervised and structured hands-on learning and related technical instruction. Funding comes from the Workforce Investment and Wagner-Peyser Acts.	$380,000 (d)
Senior Community Service Employment Program (SCSEP): Provides low-income seniors age 55 and older with temporary subsidized employment to learn and upgrade skills through training.	$889,751
Trade Adjustment Assistance (TAA): Assists employees in manufacturing industries whose jobs are lost as a result of imports and free trade agreements that shift employers production or sales.	$3,192,097
Transition Assistance Program (TAP): Provides job search assistance and related services to men and women exiting the military during their transition into civilian life.	$41,000
Wagner-Peyser Job Service Program: Matches individuals seeking employment with employers through a nationwide labor exchange program. Also funds the Registered Apprenticeship Program.	$6,619,274
Wheat Harvest Program: Matches farmers, custom cutters, and farm laborers during harvest season through this employment service program. (Can include Wagner Peyser funding if needed.)	$32,294 (c)
Workforce Investment Act - Adult Program: Provides employment and training services to help individuals find and qualify for employment.	$6,014,471
Workforce Investment Act - Dislocated Workers Program: Provides services to individuals who have been laid off through no fault of their own, and are not expected to return to their previous employer.	$7,651,181
Workforce Investment Act - Youth Program: Helps low-income youth with barriers to employment. Also funds the Neighborhood Improvement Youth Employment Act program.	$7,204,197 (e)
Work Opportunity Tax Credits: Grants private, for-profit employers a federal income tax credit to hire workers from groups considered hard to employ (welfare recipients, high-risk youth, ex-felons, etc.)	$163,515
Total:	$34,635,913

Source: The Kansas Department of Commerce.
(a) Funding is included in the Wagner-Peyser grant.
(b) Program is currently funded with Workforce Investment Act set-aside funds.
(c) Program is 100% State funded.
(d) Includes $100,000 from the Workforce Investment Act set-aside, and $280,000 from Wagner-Peyser
(e) Total WIA Youth funding is $7,304,197. $100,000 of that amount is reported in the Neighborhood Improvement program.

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The Kansas Civil Service Act Requires State Employees To Be Provided a Fair and Equal Opportunity for Public Service

Authorized by K.S.A. 75-2925, the Kansas Civil Service Act has been in effect since 1941. The purpose of the Act is to recruit, select, develop, and maintain an effective and responsible workforce. The law mandates that all personnel actions be based on merit principles, which means employees should be chosen based on the knowledge, skills, and abilities to perform the work that's required.

The Act and related regulations also prohibit discrimination and nepotism. These provisions are intended to help reduce favoritism within the State employment system.

The provisions of the Civil Service Act generally apply only to classified employees. The Act divides the State's civil service into classified and unclassified services. For classified employees, the Act and related regulations generally outline specific procedures to be followed when hiring, promoting, demoting, evaluating, and compensating these employees.

For unclassified employees—including employees of the Legislature, courts, elected officials, agency heads appointed by the Governor, employees in certain high-level policy positions, and the like—these requirements don't apply.

The Act and related administrative regulations create a number of requirements to ensure that personnel practices involving classified employees are fair. These requirements include such things as:

- *public notice of vacancies*: When a vacancy occurs in a classified, full-time position, agency officials are required at a minimum to give notice to employees within the agency. Currently, by Division of Personnel Services policy, the required length of posting is seven calendar days.
- *salary limits for new hires*: Pay for new hires should start on the minimum step in the pay grade for the position's class unless the agency can justify higher pay based on the employee's exceptional qualifications or a competitive job market that would necessitate it. (Since 2001,when the first three steps were eliminated to address recruitment difficulties, the minimum step has been step four.)
- *hiring and promotions are to be based on merit principles*: Hiring and promotion should be based on candidates' knowledge, skills, and abilities.
- *salary limits for promotions and retroactive pay*: Employees who are promoted into a new position may be put on the same or lower pay step as long as they get an increase in pay. Retroactive pay is allowed in some instances, but only for up to six pay periods.

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The Division of Personnel Services is responsible for administering the Kansas Civil Service Act, but in recent years it has significantly cut back on its oversight of State agencies' personnel practices. The Division creates and manages the Statewide compensation and classification plans. Some State agencies, including the Department of Commerce, have been given what's called "delegated authority" to classify and reclassify most positions on their own.

The Division also manages the Statewide Human Resources and Payroll (SHaRP) System. In addition, it provides support and assistance to agencies that manage human resource functions and programs internally.

At the time we completed a performance audit of the hiring and promotion practices of Kansas' public safety agencies in February 2004, we reported that the Division of Personnel Services had gradually reduced the control it exercises over State agencies' personnel practices. During this current performance audit, Division officials reported that their oversight responsibilities had not changed; they still viewed their role as a support function to State agencies.

Department of Commerce Divisions of Business & Workforce Development
AT A GLANCE

Authority: The Business Development Division was created by K.S.A. 74-5037. The Workforce Development Division was created by K.S.A. 44-701et seq.

Staffing: The Business Development Division has 22 filled full-time-equivalent positions. The Workforce Development Division is alloted 222.5 full-time-equivalent positions.

Budget: The Business Development Division's major source of funding is the Economic Development Initiatives Fund (EDIF). The Division also receives moneys from other sources including federal grants, such as the Workforce Investment Act and Wagner Peyser.

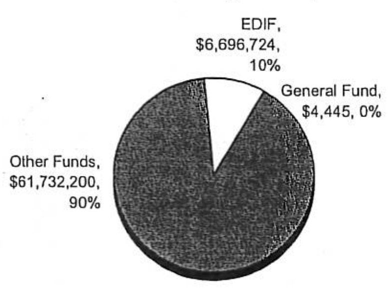
The Workforce Development Division's major funding comes from Other Fund appropriations. Most of these moneys are from federal grants, such as the Workforce Investment Act and Wagner Peyser. State funds include, but aren't limited to the Investment in Major Projects and Comprehensive Training program (IMPACT). The Division also receives moneys from other sources, including the Economic Development Initiatives Fund (EDIF) and State General Fund.

For fiscal year 2006, the Divisions took in and spent about $68 million as shown below.

FY 2006 Expenditures

Type	Amount	% of Total
Other Assistance	$42,035,235	61%
Salaries & Wages	$14,207,668	21%
Contractual Services	$6,192,052	9%
Non-expense Items	$4,453,960	7%
Commodities	$539,093	1%
Capital Outlay	$511,727	1%
Aid to Local Governments	$270,625	0%
Capital Improvements	$87,226	0%
Payments for Interest	$70,783	0%
Debt Payments	$65,000	0%
Total Expenses:	**$68,433,369**	**100%**

Sources for Funding for Expenditures



Total Funding: **$68,433,369**

Source: Department of Commerce and Division of Budget
(a) Business Development had total expenditures of $2,931,661 in FY 2006.

Question 1: What Has Happened to the People and Positions Transferred From the Department of Labor to the Department of Commerce?

ANSWER IN BRIEF:	*In all, 217 of the 300 employees transferred from the Department of Labor (72%) still are working for the Department of Commerce. Of those, 189 are in the same or an equivalent position and pay range as they previously held, and 28 have changed positions—mostly upwards. Of the 83 transferred employees who've left the Department, most voluntarily resigned, retired, or transferred to another State agency. Most of the replacements for those employees came from outside the Department, had less experience related to workforce development, slightly better education levels, and were hired at the same or lower salaries.* *Since the transfer, 23 fewer program specialist positions have been filled in the Workforce Development Division, and a number of higher-level positions have been created. A number of current Department employees responding to our survey expressed concerns about leaving direct-service positions unfilled. According to Department officials, such changes have been necessary to reflect different agency needs following the reorganization, to address known and anticipated federal funding cutbacks, and to avoid laying off employees when contractors take over administrative responsibility for two local workforce investment areas. These and related findings are discussed in more detail in the sections that follow.*

Most People Transferred From the Department of Labor Were Still Working For the Department of Commerce

As of October 2006, 217 of the 300 transferred employees were still with the Department of Commerce. In all, 189 of those 217 employees still had the same or an equivalent position title and pay range as they previously held, 21 were in higher-level positions, and 7 were in lower-level positions.

In total, 83 transferred employees (28%) had left the Department of Commerce. Information about these 83 employees is summarized in ***Figure 1-1***.

Figure 1-1
What Happened to the People Transferred from the Department of Labor to the Department of Commerce

What Happened....	# of People:
People still at the Department of Commerce...	217
In same or equivalent position	189
Changed position	28
People who have left the Department of Commerce...	83
Voluntarily resigned	39
Retired	33
Transferred to another State agency	8
Terminated	1
Died	2
Total	300

Source: LPA analysis of SHaRP data.

Some employees left almost immediately following the

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transfer; the average was 14 months after being transferred. In addition, the average age for those employees who retired after the transfer was 61 years, which is nearly the same as the average retirement age for all State employees.

A number of transferred employees said they left the Department of the Commerce because they were dissatisfied. Legislators requested this audit partly in response to concerns they'd heard that the Department of Commerce was forcing out former Department of Labor employees and replacing them with inexperienced staff at higher salaries.

To try to address these concerns, we interviewed many of the former employees, reviewed documentation of any exit interviews conducted at the time they left, and reviewed personnel files for evidence of negative personnel actions. Based on this work, we found the following:

- **About three-fourths of the former employees we talked to indicated they were dissatisfied with the Department in some way when they left**. Of the 83 employees who left, we were able to obtain contact information for and talk to 37 of them. About half told us they left because they felt the work environment was hostile or they didn't feel valued as an employee. In addition, about one-fourth of the former employees said they left because of the change in focus from helping jobseekers to helping businesses, and two said they'd felt discriminated against because of their age. About one-fourth of the former employees we talked to said they'd left to pursue other job opportunities, because they had planned to retire, or because of medical issues. One of the 37 employees we talked with has filed a complaint with the Kansas Civil Service Board. That case is still in process.

- **Exit interviews we reviewed cited some of the same issues noted above**. Until June 2005, State regulations required agencies to conduct exit interviews when an employee left State employment. Only 15 of the 83 transferred employees who'd left the Department of Commerce had exit interview documents in their files. The reasons they cited for leaving included retirement, the fact that they'd found new employment, and (in 7 cases) a negative work environment.

- **The personnel files we reviewed showed no pattern of negative personnel actions.** During our interviews with former employees, several employees told us they felt the Department had forced them from their jobs. There is no way for us to independently determine what informal actions occurred or what words were exchanged between these employees and other Department officials. However, we were able to review employees' files for any documented evidence of a pattern of punitive personnel actions that an agency might take if it were trying to force an employee to leave. These actions could include job reassignments, letters of reprimand, unsatisfactory performance ratings, and demotions. We didn't see a pattern.

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Of the files we reviewed, two of these six employees received a single performance rating showing he or she needed to improve their work performance, and one had received a letter of reprimand for insubordinate behavior. Based on the information we reviewed in the files, these personnel actions appeared reasonable.

Employees who <u>replaced</u> transferred employees had less experience in workforce development, and generally were hired at the same or lower salaries. The Department of Commerce has replaced 35 staff who've left their positions. We compared salary levels for these 35 replacement employees with the 35 employees they replaced. In addition, we reviewed files for 21 of these employees to determine if their replacements had more or less experience and education. Our findings are summarized in ***Figure 1-2***.

<table>
<tr><th colspan="7">Figure 1-2
Salaries, Experience, and Education of 35 Former Department of Labor Employees
Compared to Their Replacements</th></tr>
<tr><th colspan="7">Education</th></tr>
<tr><td>Education Level...</td><td colspan="2">Associates Degree</td><td colspan="2">Bachelors Degree</td><td colspan="2">Masters Degree</td></tr>
<tr><td>Employees who left</td><td colspan="2">8</td><td colspan="2">5</td><td colspan="2">2</td></tr>
<tr><td>Replacements</td><td colspan="2">7</td><td colspan="2">10</td><td colspan="2">2</td></tr>
<tr><th colspan="7">Experience Level</th></tr>
<tr><td></td><td colspan="3">Average Years Experience - Kansas Workforce Development</td><td colspan="3">Average Years of Experience - Other Work</td></tr>
<tr><td>Employees who left</td><td colspan="3">9</td><td colspan="3">not analyzed</td></tr>
<tr><td>Replacements</td><td colspan="3">2</td><td colspan="3">11</td></tr>
<tr><th colspan="7">Salary Levels</th></tr>
<tr><td></td><td colspan="2">Replaced at <u>Higher</u> Salary</td><td colspan="2">Replaced at <u>Same</u> Salary</td><td colspan="2">Replaced at <u>Lower</u> Salary</td></tr>
<tr><td># of <u>Replacement</u> Employees</td><td colspan="2">8</td><td colspan="2">10</td><td colspan="2">17</td></tr>
<tr><td>Their salary was</td><td colspan="2">1% to 15% higher</td><td colspan="2">The same</td><td colspan="2">- 2% to - 24% lower</td></tr>
<tr><th colspan="7">Where the Replacements Came from</th></tr>
<tr><td>New employee from</td><td colspan="2">Department of Labor</td><td colspan="2">Department of Commerce</td><td colspan="2">Outside Either Agency</td></tr>
<tr><td># of replacement employees</td><td colspan="2">4</td><td colspan="2">0</td><td colspan="2">17</td></tr>
<tr><td colspan="7">Source: LPA analysis of SHaRP data and personnel file data.</td></tr>
</table>

As ***Figure 1-2*** shows, most replacements came from outside the Department of Commerce, their education levels were slightly better than the people they replaced, they had less experience related to workforce development, and they started at salaries that generally were the same or less than the person they replaced. The fact that the replacements had less experience isn't surprising, given that 11 of the 35 employees who were replaced were retirees, with an average of 15 years in workforce development experience.

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Since the Transfer, Fewer Program Specialist Positions Have Been Filled, and More Higher-Level Positions Have Been Created

Altogether, 222 of the 300 people transferred from the Department of Labor initially were assigned to a Workforce Development Division within the Department's Business Development Division. [Among other transferred employees, 37 were placed in various support staff areas within the Department of Commerce—including fiscal, legal, and human resources—and 41 positions transferred from the Department of Labor's America's Joblink Service (AJLA)—which was responsible for tracking workforce-related data—continued in that capacity at the Department of Commerce.] In 2006, employees assigned to workforce development programs began reporting to a newly created Deputy Secretary position. Our analysis of the change in positions since the transfer focused on these 222 positions as well as 6 Department of Commerce employees assigned to workforce development at the time of the transfer.

According to Department officials, some of those transferred positions have been reclassified, changed, or left vacant to reflect different agency needs following the reorganization. ***Figure 1-3*** shows the

Figure 1-3
Current Number of Filled Workforce Development Positions at Department of Commerce Compared to When Programs Were Transferred from the Department of Labor [(a)]

Position	# Filled June 2004	# Filled Nov 2006	Change	Avgerage Salary Nov 2006
Deputy Secretary	0	1	1	$93,330
Public Service Executive	10	20	10	$63,904
Manager, Adult Services	0	1	1	$52,312
Public Service Administrator	4	4	0	$50,857
Economic Development Representative	5	3	-2	$48,672
Program Services Manager	15	16	1	$46,112
Staff Development Specialist	0	1	1	$45,219
Program Consultant	17	14	-3	$42,073
Counselor	3	2	-1	$42,016
Special Assistant	0	1	1	$38,110
Micro-Computer System Support Tech	1	1	0	$38,773
Accountant	3	3	0	$37,139
Program Specialist	131	108	-23	$33,331
Management Systems Analyst	1	0	-1	not available
Administrative Assistant	38	29	-9	$23,341
Total	**228** (b)	**204**	**-24**	

(a) We excluded America's Job Link Alliance (AJLA) from this analysis because it was not located in the Division of Employment and Training at the Department of Labor and was not transferred until July 2005.
(b) This number includes 222 people transferred from the Department of Labor, as well as 6 Department of Commerce employees assigned to workforce development programs at the time of transfer.
Source: LPA analysis of SHaRP data.

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workforce development positions that were filled at the time of the transfer, and the positions that were filled as of November 2006.

As the figure shows, since June 2004 there's been a shift between higher-level and lower-level positions in terms of the number of positions filled. As of November 2006:

- **The Department had filled a number of higher-level positions**. These positions include a Deputy Secretary position added in April 2006 to head the Workforce Development Division. In addition, our review showed that 10 more public service executive positions are filled now as compared to the time of transfer. Regional workforce development directors account for 4 of these filled positions. Department officials told us these new directors are responsible for identifying the service needs of businesses, helping them apply for grants, helping them forecast future labor needs, and coordinating with post-secondary schools to ensure those needs are met. In addition, 4 lower-level positions were reallocated into public service executive positions, and 2 newly created public service executive positions were filled.

- **The Department has 23 fewer filled program specialist positions, as shown in *Figure 1-3*.** Employees in these positions typically provide direct services to job seekers—such as intake and assessment, job readiness, and job placement. To analyze the decline in specific programs, we looked at changes in program specialist positions in three major programs for July 2005 to October 2006. The major cutbacks for these positions and the programs they occurred in are shown in ***Figure 1-4***.

Figure 1-4
Declines in Program Specialist FTE in Major Workforce Development Programs
July 2005 to November 2006

Program	FTE Filled Positions		Change	Brief Program Description
	July 2005	Nov 2006		
Workforce Investment Act	25.5	20.7	-4.8	This Program provides employment and training services to three targeted groups: disadvantaged youth, dislocated workers, and adults.
Wagner-Peyser Program	55.0	52.9	-2.1	This Program matches job seekers with employers through a nationwide labor exchange program. Department officials told us they primarily use the funds to pay for the salaries of its employees staffing workforce centers throughout the State.
Veterans Employment Representative and Disabled Veterans Outreach Programs	24.8	19.9	-4.9	These programs encourage employers to hire veterans, help veterans gain and retain employment, and provide intensive employment services to disabled, economically, or educationally disadvantaged veterans.

Source: Position Funding Data provided by Department of Commerce

A number of current Department employees responding to our survey expressed concerns about unfilled direct-service positions. Some examples of their comments are as follows:

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- "Do[es] not fill vacant positions in a timely manner, which impacts our ability to provide excellent customer service."
- "Too many high-paying unclassified employees putting a strain on the budget. This makes it impossible to fill the positions that are desperately needed in the field."
- "What I feel [is] unfair is that our workforce center and others in western Kansas are understaffed due to retirements, resignations, etc."
- "I feel that many duties I perform on a daily basis [are] due to shortage of personnel at the local levels."
- "The personnel division is too slow in advertising and filling vacated positions."
- "Positions sit vacant and there is no communication as to why they sit vacant. Programs that provide services to businesses and communities suffer as a result."
- "Not filling positions in field offices and leaving a skeleton staff to serve the public is setting the system up to fail."
- "Vacancies in veteran's representatives positions in workforce center offices were always a priority to all. Now some positions are left unfulfilled."
- "Too many top-level positions are being filled while lines 15-22 [in the pay ranges] aren't being filled, which leaves workforce centers short-handed."

Department officials told us they were keeping positions vacant for several reasons. The three primary reasons they cited:

- management decisions that some positions were no longer needed: Department officials told us that rather than assuming that needs were addressed with positions as they were at the Department of Labor, they tried to determine the actual number and type of positions needed to deliver the various services under the reorganization. As a result, some employees' positions were reclassified to include additional duties, and in some cases, fewer job duties.

- *known or anticipated cuts in federal funding*. Department officials told us that Wagner-Peyser funding has been reduced, and that they are anticipating reductions in other funding. Kansas received about $6.6 million in Wagner-Peyser funds for fiscal year 2006, and anticipates that it will receive about $280,000 less for fiscal year 2007, a decrease of about 4%. Department officials told us they primarily use Wagner-Peyser funds to pay for the salaries of its employees who staff workforce centers throughout the State. Department officials also told us they are anticipating the federal government will reduce funding or keep funding levels stagnant for other workforce development programs in the future.

  Although Wagner-Peyser funds decreased for fiscal year 2007, Workforce Investment Act funding went from $20.8 million to $22.6 million, an increase of $1.7 million. These funds are primarily spent to provide services to job seekers, including case management provided by Department staff in local Workforce Investment Areas 3 (Kansas City) and 5 (Southeast Kansas).

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- *avoiding having to lay off employees in Local Workforce Investment Areas 3 and 5 when contractors take over administrative responsibility from the Department*. As of July 2007, the Department will no longer be the administrative entity for Workforce Investment Act funds used in Local Workforce Investment Area 3 (the Kansas City area). In addition, Department officials anticipate they will remove themselves as the administrative entity in Local Workforce Investment Area 5 (southeast Kansas). In total, 75 Department employees currently provide most of the services in those two areas, and 66 would be impacted by the change in administrative entity. Department officials told us that they've initiated a Statewide hiring freeze for all field positions, and that holding positions open in other local areas will allow them to avoid laying off employees in Local Areas 3 and 5 when contractors become the administrative entities in those areas.

The conclusion and recommendations for this audit begins on page 21.

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Question 2: Has the Department of Commerce Followed Statutory and Regulatory Requirements and Best Practices for Personnel Actions for Employees in the Divisions of Business and Workforce Development?

ANSWER IN BRIEF: *The Department followed statutes, regulations, and best practices for most personnel actions we reviewed. However, we found some problems related to conducting annual performance evaluations, setting priority outcomes, retroactively paying employees, getting approval before downgrading information technology positions, and reallocating positions to promote employees without competition. Department employees we surveyed generally rated the Department's performance appraisal process and general workplace policies fairly high, but they rated the fairness of the hiring and promotions process much lower. Employees who transferred from the Department of Labor were less likely than other employees to view the Department as fair in its handling of personnel matters. These and other findings are discussed in the sections that follow.*

The Department Followed Requirements and Best Practices for Most of the Personnel Actions We Reviewed

We reviewed a sample of the personnel-related actions that had occurred since the June 2004 transfer of workforce development programs and employees from the Department of Labor to the Department of Commerce.

Figure 2-1
Number and Types of Personnel Actions We Reviewed and a Summary of Problems We Found

Type of Personnel Action	Total Actions (a) June 2004 to Oct 2006	# Actions Reviewed Involving / (# of Employees)	# Actions With a Problem Involving / (# of Employees)
Hires/Rehires	44	10 (10)	0
Employee Transfers	15	7 (7)	0
Competitive Promotions	12	6 (6)	0
Terminations	3	3 (3)	0
Performance Rating Appeals	11	6 (6)	0
Grievances	11	5 (5)	0
Retroactive Pay	Not calculated	2 (2)	2 (2)
Annual Performance Ratings	Not calculated	27 (20)	6 (6)
Setting Priority Outcomes	Not calculated	27 (20)	6 (5)
Position Reallocations	34	21 (20)	7 (6)
Total	130 (b)	**114 (99)**	**21 (19)**

Source: LPA analysis of personnel actions at the Department of Commerce.
(a) We included personnel actions for classified, full-time positions in the Business and Workforce Development Divisions, and other positions and people moved to Department of Commerce as a result of Executive Reorganization Order 31.
(b) Total annual performance ratings, priority outcomes, and retroactive pay actions weren't included in the total because we didn't determine how many such actions were completed for all Department employees.

For each of these personnel actions, we determined whether the Department of Commerce followed the Kansas Civil Service Act, related regulations, any existing internal policies, and best practices. ***Figure 2-1*** summarizes the number and types of actions we reviewed, and the problems we identified.

As ***Figure 2-1*** shows, for most of the personnel actions we reviewed, the Department followed State laws, regulations, and its own policies.

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The Department Didn't Fully Comply with Personnel Requirements And Best Practices in Four Areas

Figure 2-1 shows that the problems we identified during our reviews related to retroactive pay, the priority outcomes and performance review processes, and position reallocations. These areas are discussed in the sections that follow:

The Department paid two employees more retroactive pay than State regulations allow. Under certain circumstances, State regulations allow agencies to give classified employees retroactive pay for up to six pay periods. For example, an employee sometimes will take on different, higher-level job duties and perform them for a period of time without additional compensation. The agency can subsequently reclassify or reallocate that position to better reflect the employee's current job duties, and retroactively pay the employee at the higher pay rate for up to six pay periods.

That situation existed for two employees we reviewed. Both had assumed higher-level duties related to implementing Executive Order 31–the reorganization of workforce development programs. One employee took on these higher level duties in January 2004 and the other in July 2004, and the Department subsequently reallocated both their positions upward to public service executive IV positions in March 2005.

Documentation in their files showed that Department officials wanted to pay them retroactively back to the beginning of Fiscal Year 2005, a total of 21 pay periods, or 15 pay periods beyond what's allowed by State regulation. To accomplish that, documentation in the files showed that the Department did the following:

- placed both employees at a higher pay step than they should have been placed on, to make up for pay that Department officials felt was owed—about $6,000 for one employee and $16,000 for the other.
- after all retroactive pay had been "made up," had both employees resign their classified positions, and the Department appointed them into unclassified positions with the same job titles, and dropped each of their annual salaries to about $70,000.

These actions resulted in the employees receiving about $4,300 and $11,500 more than allowed by State regulation.

Department officials told us that placing these employees on a higher pay step was consistent with another exception allowed by State regulation—one that allowed employees to be paid at a higher step if they brought exceptional qualifications to the position. However, documentation in the files indicated the Department placed the employees at the higher step specifically to get around the retroactive pay limitations of the Civil Service Act.

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The Department didn't meet all requirements related to evaluating employees' performance. Administrative regulations require State agencies to establish and implement a performance review system and rate each classified employee's performance annually. As part of that process, supervisors and employees also were required to work together to establish priority outcomes, or goals, at the beginning of each rating period. That requirement was dropped from State regulations in June 2005, but the Department's internal policies have continued to require that priority outcomes be established.

We reviewed the files for a random sample of 20 employees, and reviewed 27 performance ratings. We found the following:

- *for 5 employees in our sample, the Department hadn't established priority outcomes at the beginning of their performance rating periods*. For one employee, priority outcomes hadn't been set for two rating periods. The four other employees didn't have priority outcomes set for one rating period. Department policies require that priority outcomes be established; without them, employees may not have a clear idea of specific job expectations and evaluation criteria.

  For three additional employees included in our review, priority outcomes weren't set at the beginning of their performance review periods—while they were Department of Labor employees. Although not a violation of Department of Commerce policy, once transferred, each went five to nine months without priority outcomes being established.

- *6 employees hadn't received an annual performance rating*. For four of these employees,17 to 20 months had passed between performance ratings. For the other two employees, performance ratings hadn't been done since before they were transferred from the Department of Labor in June 2004. One of these employees left nine months after the transfer; the other is still with the Department.

The Department's use of position reallocations to promote two employees without competition wasn't consistent with Division of Personnel Services guidance. State regulations allow agencies—through the use of position reallocations—to upgrade existing positions and promote certain employees into those positions without competition. Regulations allow this in two instances, including when a position is allocated incorrectly, and when the agency's organization structure or the duties of the position are significantly changed. Because regulations also allow the agency to appoint the incumbent from the previous position into the reallocated position, the reallocation of an occupied position often results in a promotion for the employee.

The Division of Personnel Services has issued guidance to help agencies determine how to assign new duties and responsibilities

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that result when an agency reorganizes or implements a new initiative. According to that guidance, it's appropriate to assign the new duties and responsibilities to a particular employee—through a reallocation action—if the new duties are clearly similar to the employee's current duties. The guidance says that agencies should provide an explanation to other employees in the same work unit who could perceive this non-competitive promotion as unfair. It also says that when new duties aren't similar to those managed by a particular employee, or when the new duties are similar to duties managed by more than one employee, the agency should provide the opportunity for staff to compete for the new duties.

Based on our review of recent reallocation actions at the Department of Commerce and of current laws, regulations, and Division of Personnel guidance, we found the following:

- *Most of the position reallocations we reviewed resulted in a non-competitive promotion for the employee who had been in the previous position*. Several reallocations upgraded positions to a higher—but related—classification level. For example, reallocating a program services manager II to a program services manager III position. In most cases, it was difficult to tell from the position review documentation whether the incumbent employee already had been performing all the duties of the higher-level position, and we didn't see any evidence that the Department had provided an explanation to other employees who might perceive the action to be unfair.

- *For reallocation actions involving two employees, it was clear the employees had taken on new and very different job duties from the ones they had previously performed*. One employee's administrative assistant position was reallocated to a program specialist II, which resulted in a $10,900 annual salary increase. The second employee's administrative specialist position was reallocated to an economic development representative I, then about a year later that position was reallocated again—to an economic development representative II. These two actions combined resulted in an annual salary increase of about $13,400 for this employee. Documents in this employee's file showed that Department officials had agreed to give the employee two non-competitive promotions.

  Department officials told us they relied on K.A.R. 1-4-8 (a)(1) in making these reallocations. That regulation states, "If a position that is reallocated is filled on the date of the reallocation by an employee with permanent or probationary status and if the incumbent wishes to remain in the position, the appointing authority shall, within the current pay period, appoint the incumbent to the class to which the position was allocated."

- *State laws and regulations don't require State agencies to provide notice of all promotional opportunities*. State laws make it clear that vacancies and new positions must be filled through a competitive process. However, laws and regulations don't require all promotional opportunities–such as upward reallocations–to be posted as available to agencies' current employees. In addition, although State regulations say that agencies can't use a reallocation action to avoid following regulations pertaining

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Concerns About the Lack of Step Movement and Wage Compression Have Prompted a Study of the State Employee Pay Plan

Division of Personnel Services officials told us that reallocating positions is one way agencies can increase the pay of employees in the absence of funding for annual pay increases. In addition, officials told us that it's become common for State agencies to use reallocation actions to non-competitively promote employees because, until fiscal year 2007, agencies had not been given funds to provide pay increases (step movements) that were built into the State's employee pay plan. Officials said the lack of step movement has caused wage compression and turnover, especially for newer employees. Data provided by Division officials showed that the number of reallocation actions increased by 230% from fiscal years 1996 to 2006.

Because of some of the concerns about lack of step movement and wage compression associated with the State's current pay plan, the Legislative Coordinating Council has commissioned a comprehensive market study to determine where the State's pay grades should be, and to evaluate a concept pay plan proposed by the Department of Administration.

In December 2006, preliminary results of the comprehensive market study were reported to the Department of Administration and Legislative Research, who are helping coordinate the study. Final results of the study are expected in late January 2007.

to promotions, there aren't any regulations specifically addressing whether promotions have to be filled competitively.

By reallocating positions that were occupied by State employees—then promoting the incumbent employees into the newly reclassified positions—the Department was able to fill the positions without giving other employees the opportunity to compete for the promotions. Although allowed, Division of Personnel officials told us actions that are perceived to be unfair—such as assigning new duties and responsibilities to a specific employee, without competition—can lead to morale problems.

The Department didn't get approval from the Division of Personnel Services before reallocating information technology positions. According to Division officials, since 1993 State agencies have had to get their approval before reallocating information technology positions. In October 2004, the Department reallocated a group of 10 information technology positions, four of which were in our sample. Division officials told us the Department completed these reallocations without getting formal approval. (In our sample, three of the four employees' annual pay was reduced by $1,350 to $5,700.)

Officials from both agencies told us they'd had preliminary discussions regarding these actions, but the Department hadn't submitted detailed position descriptions to the Division for its approval. After the Department entered the changes into the State's personnel and payroll system, Division officials met with Department officials to discuss the situation. According to Division of Personnel records, at the time both agencies agreed the Department shouldn't have taken these actions on its own, but no changes were made because Division officials indicated they likely would have approved these actions anyway.

Employees Had Mixed Opinions About the Way the Department Handled Personnel Actions

One reason this audit was requested was that legislators had heard complaints about personnel actions the Department had taken since the transfer of the workforce development programs from the Department of Labor. To determine how Department employees viewed the Department's personnel-related policies and practices, we surveyed all 390 current employees. In all, 210 surveys were returned, for a response rate of 54%. Of those returned, 112 were from former Department of Labor employees.

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Figure 2-2 Current Department of Commerce Employees' Responses to Our Survey of Their Opinions About the Department's Personnel Policies and Practices (a)			
Subject of Survey Question...	% of all survey respondents agreeing with this statement	% of former Dept of Labor employees agreeing with this statement	% of all other Dept of Commerce employees agreeing with this statement
Hiring and Promotions Processes			
Advance notice is given when positions become vacant or when new positions are created	56%	49%	65%
Vacant positions are filled through a competitive process	45%	31%	61%
My skills and qualifications are considered	48%	30%	68%
The hiring process for outside candidates is fair and objective	44%	29%	63%
The promotions process is fair and objective	32%	22%	44%
Performance Rating Process			
The criteria I was evaluated on were clearly explained to me	79%	74%	84%
My performance rating was based on the criteria I was told about	75%	73%	77%
The evaluation process is fair	72%	64%	80%
The evaluation appeal process is fair and objective	62%	55%	69%
Grievance (internal complaint handling) Process			
I'm aware of the Department's process for handling complaints about my supervisor, management, or a co-worker	79%	72%	87%
The grievance process is fair	54%	46%	63%
General Workplace Policies			
The Department adheres to policies to ensure the workplace is free from harassment	79%	69%	90%
The Department adheres to policies to ensure that the workplace is free from violence	88%	82%	94%

Source: LPA survey of current Department of Commerce employees.
(a) Percentages shown are those employees agreeing or strongly agreeing with the statement.

Employees generally rated the Department's performance evaluation system and general workplace policies relatively high, but they rated the fairness of the hiring and promotions processes much lower. ***Figure 2-2*** summarizes the results of the survey.

As the figure shows, the positive response rates regarding the Department's hiring and promotions processes were fairly low. The biggest area of concern appeared to be with the fairness and objectivity

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The Kansas Human Rights Commission Has Received Five Complaints and the Kansas Civil Service Board Has Received One Over the Past Three Years

Since June 2004, the Kansas Human Rights Commission has received 5 complaints about the Department of Commerce. As shown, 3 of those complaints are closed and 2 are still in process. State law makes the proceedings and outcomes of these cases confidential.

Kansas Human Rights Commission and Kansas Civil Service Board Complaints by Department of Commerce Employees Since June 1, 2004		
Number Filed	Number Open	Number Closed
Kansas Human Rights Commission		
5	2	3
Kansas Civil Service Board		
1	1	0
Source: Kansas Human Rights Commission and Kansas Civil Service Board		

These complaints alleged the following:

- a person with a disability wasn't offered a position with the Department
- a person with a disability was denied an interview with the Department
- a female wasn't given the opportunity to apply for a promotion that a similarly situated male received
- a female was demoted
- a Hispanic man was subjected to verbal abuse, denied a promotion, and received a verbal and written reprimand

For this same time period, the Kansas Civil Service Board has had one appeal against the Department. A former Department of Commerce employee who was dismissed for conduct is appealing that personnel action. This case is scheduled for a hearing before the Board in February 2007.

of the promotions process. Satisfaction in these areas can be expected to be somewhat lower than other areas because even with competitive promotions, one employee gets the job, and one or more others don't.

Employees who transferred from the Department of Labor were less likely than other employees to rate the Department as fair in its handling of personnel matters. In all categories, former Department of Labor employees rated the Department lower than other employees did. As ***Figure 2-2*** showed, the differences in responses were greatest in the area of hiring and promotions practices. A number of factors could be contributing to these lower ratings, including the following:

- since the transfer, some former Department of Labor employees may have had a difficult time adjusting to the change in agencies and in the focus of the workforce development program. Before the transfer, Department of Commerce officials held 13 "welcome" meetings in various locations through the State, sent each employee a postcard, and set up a special website for transferees to access information about the Department and its policies. Nonetheless, only 32% of the 112 former Department of Labor employees responding to our survey thought the Department of Commerce clearly explained how the reorganization would impact their positions.

- since the transfer, the Department has reallocated 64 positions without competition. Few employees may be aware that agency officials have this authority, and they may feel that such actions circumvent the requirements of law.

- former Department of Labor employees accounted for 82% of the downward reallocations initiated by the Department of Commerce, 36% of the upward reallocations, and 38% of the promotions. These actions have led to former Department of Labor employees receiving smaller salary increases and fewer position upgrades than other Department employees. Our analyses showed that, since June 2004, salaries for former Department of Labor employees increased an average of 11%, compared with an average of 16% for other Department employees.

- many employees who were transferred from the Department of Labor indicated they didn't feel valued by the Department of Commerce. For example, only 30% of the former Department of Labor employees agreed that their skills and qualifications were considered in hirings and promotions, compared with 68% of other Department employees. In addition, transferred employees frequently cited this concern in their written comments on the survey. A sample of their comments:

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- "Former Kansas Department of Human Resources staff are treated differently than Commerce staff."
- "Many individuals in leadership treated those coming over from the Kansas Department of Human Resources as inferior employees."
- "It seems to me that Department of Commerce really didn't want the programmers from Labor."
- "Even Classic Commerce staff have commented on the differences in how former Department of Human Resources staff are treated with regards to promotions and pay."
- "Since the merger in July 2004, I feel that the former Commerce employees have had more opportunities for positions and promotions."
- "There was a general consensus approach to denigrate Kansas Department of Human Resources staff, to refer to them as 'indolent bureaucrats' and to generally disregard their input."

When we talked to employees who had resigned or retired, as discussed in Question 1 of this report, many of them cited similar concerns.

CONCLUSION

The movement of approximately 300 employees from one agency to another agency that has different management, different processes, and different ideas about how programs should be carried out can create stress and discontent for some employees. For the most part, we found that the Department's personnel actions since the reorganization complied with State laws and regulations. The area raising the most concern among employees was the Department's handling of promotions. The Department relied primarily on position reallocations to reorganize and restructure its staff to fit its plans for workforce development programs. These reallocations generally resulted in non-competitive promotions for the employees who were in those positions. State statutes and regulations related to promotions and reallocations are confusing and appear almost contradictory. State statutes say that vacancies and new positions must be filled competitively, but State regulations clearly allow agencies to upgrade existing positions without competition by using reallocations. State regulations prohibit using position reallocations to avoid regulations pertaining to promotions, but there essentially aren't any regulations addressing whether promotions need to be competitive.

Over the past decade, State agencies have significantly increased their use of reallocations as a way to promote employees. Division of Personnel Services' officials have pointed out in memos to agency personnel directors that the use of reallocations—if not well explained—can cause serious morale problems. We think the Department of Commerce can and should do more to make its employees aware that upward reallocations of existing positions—and the resulting non-competitive promotions—are allowed by law, and to explain why those actions were taken instead of using

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competitive promotions. In addition, because this issue has been the subject of employee frustration in this audit and other audits we've done looking at agencies' handling of personnel actions, we think the Department of Administration needs to clarify whether agencies can use reallocations as a way to give employees non-competitive promotions.

RECOMMENDATIONS

1. To ensure that State agencies aren't using position reallocations to avoid competitively filling positions when competition is appropriate, the Department of Administration should examine State laws and regulations related to reallocations and promotions and clarify the steps agencies must take to competitively fill promotional opportunities.

2. Until the Department of Administration examines and clarifies State laws and regulations related to reallocation and promotions, the Department of Commerce should follow guidance issued by the Division of Personnel Services, which states the following:

   a. if new duties and responsibilities are similar to those managed by more than one employee, provide the opportunity for staff to compete for the higher reallocation that will occur. In doing so, if a vacant position isn't available to reallocate, or it's not practical to commit the FTE to a new position, announce an internal promotion opportunity, have staff compete, and then reallocate the position of the employee selected for the promotion.

   b. in those instances when new duties and responsibilities are assigned, and a reallocation action is used to upgrade an employee's position without competition, provide an explanation to other employees in the same work unit who could perceive the action to be unfair.

3. To ensure that it's evaluating employee performance in accordance with State regulations and its own policies, the Department of Commerce should take steps to:

   a. ensure that priority outcomes are established for each position at the start of each rating period
   b. ensure that all employees are evaluated at least once annually.

4. To ensure that it is in compliance with regulations related to retroactive pay, the Department of Commerce should seek approval from the Director of Personnel Services before granting retroactive pay to any employee beyond the six pay periods allowed by K.A.R. 1-5-7(d).

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APPENDIX A
Scope Statement

This appendix contains the scope statement approved by the Legislative Post Audit Committee for this audit on December 26, 2006. The audit was requested by Senators Brownlee and Palmer.

Personnel Practices at the Department of Commerce: Determining Whether Actions Related to Positions In the Division of Business and Workforce Development Were In Accordance With State Law and Regulations

In January 2004, the Governor issued Executive Order #31 which abolished the Division of Employment and Training within the Department of Human Resources (now the Department of Labor) and moved all officers and employees of that Division to the Department of Commerce. All transferred classified employees were to retain their classified status, and all transferred employees were to retain all retirement benefits, leave balances, and rights which had accrued or vested prior to the date of transfer. Any subsequent transfers, layoffs, or abolitions of classified positions were to be made in accordance with the civil service laws and regulations.

Recently legislators have become concerned about reports they've heard from current and former employees that the Department is forcing out long-time employees who have knowledge of workforce training programs, and replacing them at higher salaries with new employees have much less experience with these types of programs. Specifically, the legislators would like to know such things as how much turnover there has been in the original staff transferred from the Department of Labor, why those employees left, and who replaced them. They also want to know how the experience and salary levels of the new employees compare with the experience and salary levels of the employees they replaced. Finally, legislators want to know whether the Department is following State laws and regulations governing personnel transactions as they relate to these or other employees within the Division of Business and Workforce Development.

A performance audit of this topic would answer the following questions:

1. **What has happened to positions and people transferred from the Department of Labor to the Department of Commerce?** To answer this question, we would identify all positions related to workforce development and training transferred from the Department of Labor. For each position, we would determine whether the position has been reclassified or reallocated, and whether the original employee remains in the position or has been replaced. In addition, for any position in which the original employee has been replaced, we would review personnel records and talk with the employee and Department officials to determine why that employee left the position. Also, we would compare education, years of experience, and salaries for the employees who left with the same information for the new employees who replaced them. Finally, we would identify whether the replacement employees came from the Department of Commerce, other State agencies, or from outside the State workforce.

2. **For positions transferred from the Department of Labor or other positions within the Division of Business and Workforce Development, has the Department of Commerce followed the requirements of law and regulations and good personnel practices?** To answer this question, we would review laws and regulations regarding hiring employees, promotions, evaluations, demotions, terminations, and reclassification of positions. We would determine what the Department of Commerce's policies and procedures are in each of these areas and compare them to the laws, regulations, and best practices. We would select a sample of new hires, promotions, demotions,

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and terminations within this Division, and review available documentation to determine whether the Department appeared to comply with its own policies and procedures, with best practices, and with laws and regulations. We also would determine whether individuals hired or promoted met the minimum qualifications for the jobs they filled. For any that didn't meet qualifications, we would interview agency officials to determine why. In addition, we would look at any hearings or grievance procedures the Department has established for employees who feel they have not been treated fairly in personnel actions, and determine whether the Department is following its procedures. We would contact the Kansas Association of Public Employees and the Kansas Civil Service Board to find out what complaints may have been filed against the Department. Finally, we would survey Department employees to determine what they think about the fairness of the Department's hiring, evaluation, and promotion practices.

Estimated Time to Complete: 7-9 weeks

APPENDIX B

Summary of Survey Comments from Department of Commerce Employees

We surveyed all current Department of Commerce employees to obtain employees' opinions about the fairness and objectivity of personnel practices at the Department. Overall, 210 of the 390 employees responded, for a response rate of 54%. Of those who responded, 112 (53%) were former Department of Labor employees.

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Survey of
Department of Commerce Employees

The Legislative Post Audit Committee of the Kansas Legislature has directed the Legislative Division of Post Audit to conduct a performance audit of personnel practices at the Department of Commerce. The following survey is intended to obtain your opinions about the Department's personnel policies and practices.

Information you provide in response to this survey is confidential by law (K.S.A. 46-1129). Because of concerns about potential retaliation against any State employees responding to our surveys, the Legislative Post Audit Act was recently amended to ensure that survey responses are confidential.

Please be assured that individual responses will not be provided to officials at the Department of Commerce, and the way in which we report the information will not allow the readers of our report to identify the responses of any individual who responds to our survey. **If you have any questions about this survey or our audit, please contact Amy Thompson, Auditor, at (785) 296-3792.** Thank you for your assistance.

Important: Please return the survey in the enclosed postage paid envelope by Wednesday, November 1, 2006.

Section 1: Information about General Personnel Practices at the Department of Commerce

1. In general, employees are notified in advance when existing positions become vacant and available or when new positions are created. (209 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
16.8%	*39.7%*	*22.0%*	*16.3%*	*5.3%*

2. In general, the qualifications for vacant positions are clearly spelled out. (209 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
16.3%	*52.6%*	*18.7%*	*7.2%*	*5.3%*

3. In general, the steps to apply for a vacant position are communicated clearly. (207 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
17.9%	*57.0%*	*11.1%*	*8.7%*	*5.8%*

4. In general, the time provided between the position announcements and the application deadline allows me enough time to apply for the position.
(208 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
16.8%	*53.9%*	*12.5%*	*5.8%*	*11.1%*

5. In general, vacant positions are filled through a competitive process. For example, vacancies are posted, and, if there is more than one applicant all applicants are considered.
(210 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
15.2%	*30.0%*	*20.5%*	*15.2%*	*19.1%*

6. If I am qualified for a position, I am confident that my skills and qualifications will be given the same level of consideration as other qualified applicants.
(209 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
14.8%	*33.0%*	*20.6%*	*18.7%*	*12.9%*

7. The process used to hire candidates from outside the agency is fair and objective.
(207 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
14.5%	*30.0%*	*14.5%*	*13.5%*	*27.5%*

8. The process for promoting existing employees into positions with higher pay or more responsibility is fair and objective.
(207 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
12.1%	*19.8%*	*20.8%*	*22.2%*	*25.1%*

9. Have you been involuntarily moved to a position with less responsibilities and lower pay since 2004?
(207 Responses)

Yes	*No*	*I'd rather not answer*
5.8%	*91.3%*	*2.9%*

If you answered yes to the previous question, please answer the next two questions. Otherwise, please skip to question 12.

10. Were you informed about weaknesses in your job performance prior to being demoted?
(14 Responses)

Yes	*No*	*I'd rather not answer*
0.0%	*92.9%*	*7.1%*

11. Were you given sufficient chance to correct the deficiencies before you were demoted?
(12 Responses)

Yes	*No*	*I'd rather not answer*
0.0%	*91.7%*	*8.3%*

12. Please use the following space to tell us about any instances within the past 2 years in which you feel **you** have been treated unfairly or that personnel policies have not been followed as they relate to your job at the Department of Commerce.
(46 Responses)

Please describe in detail below. (*Please note, we will not be able to review complaints for which we have insufficient detail.*)
If you have nothing to report here, skip to the next section.

The situation I am about to describe relates to:
Promotions *Demotions* *Disciplinary Actions* *Other*

Specific responses to this survey question are not included in this summary. Responses to surveys administered by Legislative Post Audit are confidential pursuant to K.S.A. 46-1129 of the Legislative Post Audit Act.

Section 2: Information about Performance Evaluations

13. My supervisor or another person in authority clearly explained the criteria I would be evaluated on.
(200 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
20.0%	*58.5%*	*10.5%*	*9.5%*	*1.5%*

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14. My performance evaluations have been based on the criteria I was told I would be evaluated on.
(199 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
21.6%	*53.3%*	*10.1%*	*8.5%*	*6.5%*

15. Overall, I think the performance evaluation process at the Department of Commerce is fair.
(200 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
16.5%	*55.0%*	*9.5%*	*9.5%*	*9.5%*

16. I am aware that the Department of Commerce has a process in place to evaluate my performance.
(201 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
24.9%	*68.2%*	*2.0%*	*3.5%*	*1.5%*

17. A fair process has been established to appeal my performance evaluation if I think it is inaccurate.
(200 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
17.5%	*44.0%*	*6.5%*	*5.0%*	*27.0%*

18. Generally, my performance is evaluated at the Department of Commerce every...
(190 Responses)

0-6 months	*7-12 months*	*13-24 months*	*More than 2 years*	*Never*
16.8%	*63.7%*	*13.7%*	*4.2%*	*1.6%*

19. Since July 1, 2004, the number of formal evaluations I have had is....
(197 Responses)

0	*1*	*2*	*3*	*More than 3*
9.1%	*20.8%*	*51.8%*	*12.7%*	*5.6%*

35
5.34

20. Have you appealed a performance evaluation while employed with the Department of Commerce?
(201 Responses)

Yes	*No*	*I'd rather not answer*
5.5%	*94.5%*	*0.0%*

21. If you answered Yes to Question 20, please tell us if the Appeal Committee's decision was in your favor. (Skip to Question 22 if you answered No.)
(11 Responses)

Decision was in my favor	*Decision wasn't in my favor*	*I'd rather not answer*
18.2%	*54.5%*	*18.2%*

Section 3: Information about Internal Complaints

22. I am aware that the Department of Commerce has a process in place to handle internal complaints I may have with my immediate supervisor, management or a co-worker.
(200 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
19.5%	*59.5%*	*7.0%*	*4.0%*	*10.0%*

23. A fair process has been established to handle internal complaints I may have with my immediate supervisor, management, or a co-worker.
(202 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
14.9%	*39.1%*	*11.9%*	*7.9%*	*26.2%*

24. In general, the Department adheres to its policies and procedures to ensure a workplace that is free from harassment.
(199 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
20.1%	*58.8%*	*5.0%*	*8.5%*	*7.5%*

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25. In general, the Department of Commerce adheres to its policies and procedures to ensure a workplace that is free from violence.
(201 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
24.9%	*62.7%*	*2.5%*	*3.5%*	*6.5%*

Section 5: Information about 2004 Executive Reorganization

Please answer the following question if you were employed by the Department of Human Resources/Labor or Department of Commerce at the time the July 2004 Executive Reorganization occurred.

27. Department of Commerce clearly explained to me how the reorganization would impact my position.
(164 Responses)

Strongly agree	*Agree*	*Disagree*	*Strongly disagree*	*Don't know*
8.5%	*27.4%*	*34.2%*	*23.2%*	*6.7%*

Additional Comments. If you would like to provide any additional comments about the Department of Commerce's personnel practices, please use the space below and additional sheets as needed.

Specific responses to this survey question are not included in this summary. Responses to surveys administered by Legislative Post Audit are confidential pursuant to K.S.A. 46-1129 of the Legislative Post Audit Act.

Thank you very much for responding to our survey. If you have any other specific information or concerns you'd like to pass on related to this audit that weren't covered by this survey, feel free to contact us at (785) 296-3792. Your name and any information you provide will remain confidential; we'll use it only to help us decide what areas to look at during this audit. For information about who we are and what we do go to: http://www.kslegislature.org/postaudit

Please return the survey no later than Wednesday, November 1, 2006 to:

**Legislative Division of Post Audit
800 SW Jackson Street, Suite 1200
Topeka, Kansas 66612**

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APPENDIX C

Agency Response

On December 26, 2006, we provided copies of the draft audit report to the Departments of Commerce and Administration for their review and comment. The responses we received are included in this Appendix. After reviewing both responses, we made a number of minor changes and clarifications to the final report that didn't change our overall findings and conclusions.

In addition, the Department of Commerce raised a number of issues, which are addressed below:

1. In its response to the draft audit report, the Department made reference to Legislative Post Audit's "acknowledged lack of expertise" in the area of personnel administration. Although we are not human resources specialists, we have conducted a number of performance audits over the years reviewing compliance with personnel laws, regulations, and best practices, and our office is well-versed in many of those requirements. But as in any audit, our auditors went through a learning curve with agency officials in both Departments to more fully understand agency-specific policies, practices, terminology, and the like.

2. The Department raised several concerns about our survey of its employees. The following comments address two of those concerns.

   - That our survey was poorly written and slanted to "purposefully evoke the responses that Legislative Post Audit was directed to elicit." We were not—nor have we ever been—directed to elicit a certain response or finding in our audit work. Our survey was intended to obtain employees' opinions about the Department's personnel practices. We tried to make each question as neutral as possible. In addition, before sending the survey to all Department employees, we gave Department officials the opportunity to comment on a draft survey. At their request, we reworded several questions and added a few others. [A copy of the survey document with summary results is included in Appendix B.]

   - That our audit findings were drawn heavily from our survey. Our audit findings regarding the Department's compliance with personnel laws, regulations, policies, and best practices were not drawn from the survey. Rather, they were based on our review of documents contained in Department files for a sample of personnel actions (such as hiring, promotions, reallocations, etc.). In many cases we also confirmed with officials in the Division of Personnel Services what actions the Department should have taken. As stated on page 14 of the report, most of the Department's personnel actions we reviewed complied with laws, regulations, and best practices. The report also describes some specific situations we found that did not comply.

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3. In Attachment B of its response, the Department raised several questions about our findings regarding employees who did not have priority outcomes established at the start of their performance-review periods.

   a. Three employees without priority outcomes were Department of Labor employees at the time the priority outcomes should have been set. We changed our report to make that correction, but also noted that these three employees were at the Department of Commerce from five to nine months before priority outcomes were established, and the Department evaluated two of them before their priority outcomes had been established.

   b. Department officials agreed that no priority outcomes had been set for three other employees, but indicated the Department was still in compliance with its policy because the supervisors had been reprimanded in these situations. Although the Department followed that part of its policy which requires managers to hold subordinate supervisors accountable for providing timely performance reviews, this does not change the fact that priority outcomes weren't set for these employees.

   c. After we received the Department's response to our report, Department officials provided documentation showing that priority outcomes had been set for one employee. We corrected our report to show that this case was not a problem.

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KANSAS
DEPARTMENT OF COMMERCE

Kathleen Sebelius, Governor
Howard R. Fricke, Secretary
www.kansascommerce.com

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LEGISLATIVE DIVISION OF POST AUDIT

January 5, 2007

Barb Hinton
Director
Legislative Post Audit
800 SW Jackson, Suite 1200
Topeka, KS 66612-2212

Dear Ms. Hinton:

We have reviewed your draft performance audit dated December 26, 2006. This audit began with our Entrance Interview on September 20, 2006. As those three months elapsed Commerce staff invested hundreds of hours to provide data and feedback, to answer questions and, when needed, to educate LPA staff regarding labor law, state regulations and personnel practices. This "education" was necessary because of the complexities of personnel administration in the public sector and LPA's acknowledged lack of expertise in this area.

We can easily take issue with many specifics in your performance audit but will leave those specifics as attachments to this letter of response in order for this letter to focus on the most substantive areas of our concern.

From our perspective we believe your conclusions and recommendations were based on your investigation of two central issues.

The first issue is that LPA perceives a lack of clarity within state regulations regarding how state agencies handle certain promotions. The report cites this perceived lack of clarity as contributing to your conclusion that Commerce's process for handling promotions was not competitive in some circumstances. However, Commerce did not violate statute, rules and regulations, but rather your finding is that the regulations that govern promotions are sometimes ambiguous. As an aside, this finding is a repetition from previous audits of other agencies so your conclusion is not new, nor is it solely directed toward Commerce.

We believe it is not Commerce's obligation to act on this recommendation, but rather the obligation of the Department of Administration and the Legislature if those entities mutually agree with your interpretations.

OPERATIONS DIVISION
1000 S.W. Jackson St., Suite 100; Topeka, KS 66612-1354 • (785) 296-3481 • Fax: (785) 296-5055
TTY: (785) 296-3487 • e-mail: admin@kansascommerce.com

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2-38

The second issue that heavily influenced your findings is that of the attitudes and perceptions of Commerce associates, especially those that were transferred under the ERO.

We believe the findings were drawn heavily from an attitudinal survey that was poorly written, and perhaps even more egregious, was so slanted as to purposefully evoke the very responses LPA was directed to elicit. An objective review of that survey by a professional is included in our attachments.

Attitudes and perceptions aside, Commerce was directed to make changes in the State's workforce development system. The July 1, 2004 Executive Reorganization Order moving some 300 employees from the former Department of Human Resources to Commerce was the first step in modifying the existing system to better meet the needs of Kansans and Kansas employers. Commerce made every effort to communicate this to employees before, during and after the transfer including 13 welcome meetings, creation of a special website for transferring employees and training for **all** Commerce employees during 2005 and 2006 known as "academies".

The ensuing two-plus years have seen both small and large changes to the way we do business at Commerce and the way we deliver workforce development programs in Kansas. The only thing that can be said of the survey responses and your analysis thereof, is that it reinforces that change is difficult. Further, several Commerce staff met with your staff regarding our concerns over the quality and lack of objectivity of your survey document before it was mailed. During that meeting your staff admitted it was an attitudinal survey and responses would reflect perceptions more than realities. Your staff went on to say the survey results would not be used substantively in your report. However, it is clear that it is the primary, if not sole, underpinning for your conclusions and recommendations and therefore we are compelled to repeat that it was flawed and slanted at best.

As mentioned in the opening paragraph of this response letter, Commerce has spent untold hours gathering information for this and the previous LPA audit on Workforce Development. Though we appreciate your statutory charge, we believe the genesis of this audit was extremely questionable. We also believe your reliance on an attitudinal survey as a significant influence on your recommendations is a not an objective audit methodology. In closing, we believe further time spent dealing with this audit is time taken away from more productive work.

Sincerely,

Steve Kelly
Acting Secretary
Kansas Department of Commerce

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LPA Attachment A

Comments on Survey

Question:

1. "employees are notified in advance" – the term notified is vague and open to very different interpretations. Exactly what behavior is being asked about? What is the expected behavior necessary to earn a strongly agree or agree. Variance between one response and a second responder is highly likely. In addition, what are the requirements when a position becomes available? Following state rules related to posting the position should satisfy the issue of notification. If the real question is whether positions are posted, then that should be the question, not notification.

   The term "advance" is non-specific and open to subjective judgment. What is the appropriate period of time necessary for to qualify for "advance." One employee is quite likely to interpret this term very differently than another, which erodes the reliability of answers. Without at least reliability responses to the question are invalid.

2. This should be a moot point. All positions require a job description when they are being filled. The job description template state employers must use require a description of minimum qualifications.

3. This too should be a moot point. The steps to apply for any vacant position are essentially the same and a call to an HR representative could always be made by the applicant if there was confusion. The wording of this question suggests that it is the organization's responsibility to make this clear and the organization has done so by developing a policy to describe the process. It is not the organization's responsibility to personally communicate this policy to every employee but rather to make the policy easily accessible to any employee who wants the information. The question suggests that the employee's responsibility in all of this is passive.

   I am concerned about the word "communicated." Very different things can be interpreted by this term. Does it mean the organization has posted a policy and informed employees how they can access this policy? Does it mean the policy is included in an Employee Handbook and this is given to the employee when he/she being employment? The employee is quite likely to interpret this term as meaning someone has specifically, personally and verbally explained the process to him or her which of course in most cases would earn a disagree. This is a leading question biased against the organization.

4. "allows me enough time to apply for the position" is a subjective assessment. The appropriate question would ask whether the organization follows state regulations that require certain time frames for posting. If these required time frames are not sufficient for the employee, than it is the employee's responsibility to adjust. The

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organization must follow the minimum timeframe as required by law and provided it is doing that, then the employee must make adjustments.

5. "all applicants are considered" is information that the applicant can only guess at. When a position receives a large number of applicants, it is not reasonable that all applicants will be interviewed. Choosing which applicants to interview is a process that occurs between the employing supervisor and the Human Resource specialist. How that choice is made is not a public process in any organization, state or otherwise. The responder to this question can only guess whether "all" applicants were considered and if he or she were screened out, it is highly probable the responder will rate this question with a disgree or strongly disagree. This would be expected because most applicants would believe that they are a serious candidate for any position they apply for and therefore not being granted an interview could only be because they were not properly considered.

6. No comment.

7. Question seven can only be answered by a guess. Confidentiality requirements that an HR process must adhere to makes access to factual information by other employees impossible. This by itself would make the response to this question highly questionable. Added to this is the concern for the vagueness of "fair and objective." Following regulations could conceivably be interpreted by some employees as unfair and subjective if the resulting decision was not in their favor. The variability in people's response to what is "fair" in any circumstance is rampant and is the reason why our courts are as busy as they are and political campaigns can be as heated as they are. The appropriate question would be whether the organization adheres to the process described in their policy or whether they make exceptions for certain candidates.

8. Same issues as described for #7.

9. The use of the word "and" makes this a double-barreled question. It is impossible to know whether the responder is responding to "less responsibilities" or "lower pay" or both. This makes the responses unreliable and therefore invalid. Added to this, "less responsibilities" could meet a person's work load is lightened in recognition of an unfair distribution of duties. The employee might respond yes to this and be very pleased with the action by the employer so a yes answer would be hard to interpret as a good thing or a bad thing. The wording of this question suggests that a yes answer would be interpreted as a bad thing and this would be an unfair interpretation, biased against the employer.

   The third option of "I'd rather not answer" is unnecessary and inappropriately suggests wrong-doing by the employer. If an employee does not want to answer a question, he or she can choose to skip the question. Offering this third choice suggests to the employee there is a real threat of retaliation by the organization. This is an unhealthy message to deliver to employees and fuels an unnecessary "us vs. them" antagonism. Responses to this question should be a simple Yes or No. Adding the third option is unnecessarily incendiary and biases the employee against the employer.

10. This question is unnecessary. State HR policies require a specific process of documentation prior to any formal discipline action. In addition, it is the prevue of any employer to organize its resources to best serve its customers. Provided the re-organization does not affect the employee's schedule or pay, the employer can do such reorganizing at its own discretion.

    The term "demotion" is a subjective evaluation and needs more clarification. An employee who loses a preferred assignment or preferred role may interpret this as a demotion when based on job classifications, it is actually a lateral move.

    The issue of "I'd rather not answer" is described in #9.

11. This is a moot point. State HR policy requires proper documentation of attempts to help the employee correct performance prior to a true demotion. The correct question should be whether the organization followed its procedure for documenting the process, as described in its HR policies. In addition, even if correct procedure was followed and an individual was finally demoted, it is unlikely the employee would agree that they had been given sufficient chance to correct the deficiencies. Proof of this statement is the frequency with which disciplinary actions are challenged through the appeal process. This question is an unfair bias against the employer.

12. The wording here unfairly assumes that such situations have occurred. In addition, two years is a long period of time for accurate recounting of events. The probability of selective memory over such a long period of time is high and this is biased against the employer. The underlying assumption of the wording of this question is that there have been instances of unfair treatments or policies not followed. This is a leading question and heavily biased against the employer.

13. "clearly explained the criteria I would be evaluated on" is open to subjective interpretation. The evaluation template state supervisors requires the supervisor to set the evaluation criteria for the upcoming year at each evaluation anniversary. This is signed by the employee and should constitute "clearly explained." It is the employee's responsibility to look at these criteria and ask questions at the time they are set during the evaluation process. The question should more appropriately ask whether this step in the evaluation process was completed.

14. "I was told" State policies require that the evaluation template be followed, it does not require that the Supervisor verbally "tells" the employee. The employee is provided with the information and state policy requires only the written information. The use of the term "told" suggests that supervisors are required to have a verbal conversation and, based on the way this question is scored, a

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strongly disagree would be taken as evidence of shortcoming on the part of the supervisor. This is an unfair evaluation.

15. The issue of interpreting "fair" in a survey question has been discussed previously. Any employee who is evaluated negatively is likely to see the process as "unfair." That is why an appeal process is necessary.

16. No comment.

17. Once again the word "fair" is problematic. There is a high probability that any employee who does not win an appeal process is likely to consider the process "unfair." The psychological Law of Consistency ensures this. The process of defending ones behavior in a public forum serves to further convince the defendant of his or her case. When others do not agree, the only conclusion would be that they are wrong. This psychological process is well documented in the literature. This question is unfairly biased against the employer.

18. The organization's policy specifies the frequency of required evaluations. The correct question should focus on whether the organization is following its policy of regular evaluations within documented timeframes.

19. This question is asking for recall of a relatively non-salient event over a long period of time. The probability of accuracy of recall under these circumstances is very poor. There are permanent records available that would be a much more reliable and valid sources of information.

20. Same issue with "I'd rather not answer" as described above.

21. Same issue with "I'd rather not answer" as described above

22. Don't know is redundant in this question. Disagree or Strongly Disagree is a "don't know" response.

23. Same issue as #17 above.

24. The sequence of wording on this question creates a high potential for misinterpretation. If the wording was "the Department adheres to its policies dealing with workplace harassment" then the question would be fine. Stating it the way it is, it is unclear whether the question is about adhering to a policy or ensuring it is free from harassment. A disagree response could conceivably be in response to the employee's perception of harassment existing in the workplace and not whether the employer is adhering to its policy. No policy can prevent behavior, it only details a reaction to provide a deterrent for future behavior so even if the organization was effectively implementing its policy, it could never "ensure" that harassment never occurred. The response to this question is unreliable and therefore invalid.

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Don't know is redundant in this question. Disagree or Strongly Disagree is a "don't know" response.

25. See # 24.

26. There is no question on the survey corresponding to this number.

27. No comment.

Additional comments section – no comments on the wording of this.

LPA Attachment B

On page 16, your report states "for 9 employees in our sample, priority outcomes hadn't been established at the beginning of their performance rating"

Priority outcomes are not required by statute or regulation. Commerce acknowledges that our own agency policy does require Priority Outcomes as a part the evaluation process because we believe it enhances the review and evaluation and motivates personnel.

At the time you initially apprised us of these nine you requested that we respond if we thought your assessment was in error. We checked further with supervisors and in employees' Official Files and reported the following back to you.

- Four of the nine employees had Priority Outcomes in place as required by the agency's policies
- Three of the nine employees had had missing Priority Outcomes and prior to your audit the supervisor of each was held accountable as required by the agency's policy
- The supervisor on one employee with missing Priority Outcomes left the agency before discipline could be meted. The replacement supervisor had Priority Outcomes in place
- One employee with missing Priority Outcomes was not a Commerce employee at the beginning of the rating period. This associate was still employed by the Department of Labor and so Commerce's policy would not apply

We believe it is important to note that in all cases, the agency's own policy was followed. A handful of employees may have had Priority Outcomes missing, however, as required by Commerce policy, the supervisors of those employees were held accountable.

LPA elected to report this finding despite being provided information to the contrary.

Kathleen Sebelius, Governor
Duane Goossen, Secretary
http://da.ks.gov/budget

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JAN - 5 2006
LEGISLATIVE DIVISION OF POST AUDIT

January 4, 2007

Barbara J. Hinton
Legislative Post Auditor
800 SW Jackson Street, Suite 1200
Topeka, KS 66612-2212

Dear Ms. Hinton:

Thank you for the opportunity to respond to the Legislative Post Audit's report on Personnel Practices at the Department of Commerce. I am pleased to present the following official response.

On behalf of Department of Administration staff, I would like to thank you for your efforts during this audit. Your staff was courteous and receptive during all discussions and meetings, and their professionalism was greatly appreciated.

With respect to Recommendation #1 of the report, staff from the Division of Personnel Services would welcome the opportunity to meet with members of your staff to discuss exactly which statutes and regulations should be examined. Once those are identified, the Division of Personnel Services will consult with the State's Human Resource Community and work in partnership to thoroughly review the statutes and regulations in light of the findings of your report and then recommend any changes. The Director of Personnel Services will inform you of any changes that are being recommended as a result of this review.

Again, thank you very much for the opportunity to review the report.

Sincerely,

Duane A. Goossen

Duane A. Goossen
Secretary of Administration

DIVISION OF THE BUDGET
900 S.W. Jackson Street, Room 504-N, Topeka, KS 66612 • (785) 296-2436 • Fax: (785) 296-0231
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2-48

Testimony on the Personnel Practices Audit Report
Legislative Post Audit Committee
February 2, 2007
Presentation by Patty Clark, Deputy Secretary of Commerce

Madam Chair and members of the Committee, I am Patty Clark and I serve as Deputy Secretary for the Department of Commerce. We appreciate the opportunity to respond to the Post Audit report regarding our personnel practices related to the Divisions of Workforce Development and Business Development.

In July 2004, ERO #31 abolished the Division of Employment and Training within the former Department of Human Resources and moved all its officers and employees to Commerce. The ERO was not simply a transfer of people from one agency to another, but it was a reorganization of Workforce Development programs in Kansas to create a new system that partnered with business and industry, as well as the educational community, to determine areas of occupational need and deliver the trained workforce Kansas needs to remain competitive in today's global environment.

As you can imagine, this was a significant change for state employees whose focus for two decades had been employing the unemployed without much interaction with the employers. In fact, LPA asserts more than once in their report, that many employees that transferred as a result of the ERO not only had a difficult time adjusting to this change but "....do not agree with the Department's shift in focus from helping job seekers to helping businesses...." It is not difficult to extrapolate that such a perspective and attitude led to the phone calls and contacts with legislators that served as the catalyst for this audit.

Commerce invested a great deal of its staff time in order to gather data and address questions posed by LPA staff regarding employment law and practices. In addition to being both cooperative and informative, Commerce also made every attempt to educate LPA staff as they seemed to possess limited understanding of human resources principles and how these are applied under the state civil service system.

To specifically address the report, we wish to comment on the following three issues and we will be brief: (1) The subjective and leading nature of the survey instrument used by LPA as a basis for their report; (2) the lack of clarity within the state statute regarding posting positions and; (3) Commerce's performance evaluation process.

First, the survey. During our entrance interview LPA indicated it would develop a survey to send Commerce employees to help inform its objective research for this audit. As a professional courtesy they forwarded us the draft survey. Upon review of that survey we immediately contacted LPA and registered our concerns regarding its obvious lack of objectivity. Many questions posed within the survey were slanted to elicit a negative response and so poorly worded that to utilize the responses as "objective research" would be a questionable practice at best.

We were assured by LPA that it recognized the instrument it was merely an opinion and attitudinal survey and they further assured us there was no intent to substantively utilize the survey results in its report or findings. However, it is clear the underpinning for much of LPA's report is drawn from survey responses, despite LPA's assertion to the contrary. In truth, the attitudinal survey merely serves to reinforce the precept that change is difficult. It is also important to note that an opinion survey, especially one that was crafted such as this, should not be presented as objective research from which to draw policy conclusions. We have attached an independent evaluation of the survey instrument to our written reply to further affirm its subjectivity and slant.

Second, the competitive posting of positions. LPA finds that Commerce's position reallocation process was not consistent with DPS guidance. However, to draw this conclusion, LPA relied primarily upon the perception of employees (gathered from the aforementioned slanted survey) that the reallocations were done without competition. LPA also relied upon its own interpretation of rules and regulations. And finally LPA asserts, in this and previous reports, that these rules and regulations lack clarity. Employee perceptions from a slanted survey should not guide findings. Furthermore, if the Committee is inclined to agree with LPA regarding the lack of clarity of rules and regulations, then perhaps the Committee should instruct DPS to re-write the rules and regulations. This should not be a finding against Commerce.

Third, performance evaluations. Despite Commerce's efforts to provide evidence to the contrary, LPA asserts that performance evaluations and priority outcomes were missing for some employees. LPA placed particular emphasis on the absence of Priority Outcomes. State law requires annual performance evaluations but it does not require Priority Outcomes. Commerce includes Priority Outcomes as a part of our internal performance evaluation process because it believes they enhance the evaluation as well as the performance. In other words – we go the extra mile. Frankly to criticize an agency that is trying to do more than required only serves to undermine efforts to enhance individual and agency performance. This seems both counterintuitive and counterproductive so we will continue to require the Priority Outcomes and strive to achieve more, rather than less, despite the criticism.

Thank you for the opportunity to respond to this report and we will stand for questions from the Committee.

Testimony on the Workforce Development Audit Report
Joint Committee on Economic Development
October 12, 2006
Presentation by Howard Fricke, Secretary of Commerce

Good morning and thank you for the opportunity to discuss the audit report on workforce development and the Workforce Investment Act (WIA) in Kansas. It is our goal at the Department of Commerce to experience continuous improvement in the State's workforce development system, and we view this audit as a helpful tool to enable us to identify areas that need further attention.

I believe it is important for all of us to understand the State's role in implementing the Workforce Investment Act (WIA). This federal program currently provides $25 million to provide WIA services. The federal government sets the rules and guidelines for this federal program, which is carried out at the local level through Local Workforce Investment Boards (LWIBs). The State's role is to provide advice to the LWIBs on whether or not they are in compliance with the federal program and to offer suggestions and guidance when we believe the Local Boards need to take some actions to meet the federal program mandates. The bottom line is that this is a federal program administered at the local level.

The audit report goes into great detail cataloging problems that Commerce's internal oversight system previously identified, and in many cases these have already been corrected. I will be the first to tell you that Kansas' workforce development programs were suffering when Governor Sebelius took office. Commerce leadership has been systematically addressing these problems – and those efforts are laid out in the report.

We are still working hard to make improvements, such as implementing a culture change within our staff, and ensuring our programs meet the needs of Kansas employers which in turn will be a better way to provide job services to individuals. Fundamental changes such as these do not happen overnight. They are complicated and take time. We certainly have not avoided every pitfall as we have undertaken these efforts, but we have course-corrected as needed. I am confident that we are on the right track and that the daily efforts of Commerce staff to make system improvements are paying off.

For example, we recently provided technical advice and funding to local officials and educators in western Kansas to meet the job-training needs of the oil and gas industry. The recent upturn in that industry has resulted in a great need for an expanded qualified workforce, and we responded to provide training. In addition, we recently provided support to local officials in the Fort Riley area. A special WIA initiative will focus on serving the employment needs of military spouses. The return of the Big Red One to Fort Riley is resulting in unprecedented growth in that area. Commerce is working with local officials to ensure that employment and training needs of trailing spouses are met.

Commerce has responded to the conclusions and recommendations of the audit in great detail. You received a copy of that response last week, so I will not address each item in

Economic Development & Tourism
Date: 2-28-07
Attachment # 4-1

my testimony today. However, I would like to provide clarification on the conclusion that comprehensive One-Stop centers do not exist in Local Areas 1, 3, and 5 because all mandated partners were not physically present in each center. We have been assured by the federal government that partners are not required to be physically located in the One-Stop as long as their services are available on an as-needed basis through part-time staff, electronic links, or cross-training of One-Stop staff. Kansas' one-stops are in compliance with the Workforce Investment Act. After the conclusion of the audit process we received a chart outlining how the auditors had come to their conclusion. After lengthy discussions with the LPA auditors and with federal officials from the U.S. Department of Labor who, by the way, makes the ultimate determination as to whether or not each Region has a one-stop center in accordance with their interpretation of their rules, we still stand behind our original response to the audit report. The center designated as a one-stop by each local board has established memoranda of understanding with mandated partners that define how services will be delivered to customers with those special needs. While it may be preferable for a partner such as vocational rehabilitation to be co-located in every one-stop, limited state and federal program dollars make it impracticable in every instance, particularly in more rural areas. That being said, Commerce and our local partners are on a path of continuous improvement. I know the local boards are working to make services as convenient and accessible as possible for all Kansans.

I would also like to address the finding that Kansas' system lacks coordination. Unfortunately the auditors were unable to find any state to hold out as an example of a well-coordinated system. While the recommendations made to address this finding would create minimal changes, Commerce will continue to seek ways to better cooperate with other agencies. For example, Commerce and the Department of Corrections are working together to coordinate services to the offender population. Corrections staff are collocated at the Hutchinson Workforce Center and an electronic connection to the one-stop is available at the Hutchinson Correctional Facility for assistance as offenders re-enter Kansas communities. Additionally, the Department of Social and Rehabilitation Services is represented on the state workforce investment board (the Workforce Network of Kansas) and each local board. We will continue to work with SRS Vocational Rehabilitation Services to improve coordination with one-stops, particularly in Kansas City.

Commerce has gone beyond coordination with the Board of Regents. In fact, Dr. Blake Flanders serves as the Regent's Director of Career and Technical Education and also as Commerce's Director of Workforce Training and Education Services. This level of integration has allowed us to partner with Community Colleges and Technical Institutions to deliver training to Kansas businesses that is necessary for job creation and economic growth. Through the Workforce Solutions Fund created as a part of the 2004 Kansas Economic Growth Act, Commerce has invested in the State's training capacity to ensure we can meet the needs of the bioscience industry and provide trained forklift operators to employers in the Manhattan/Junction City area. Dr. Flanders will also provide information to you later this morning on the benefits the State is seeing from the collaboration between Commerce and the Board of Regents.

We appreciate the work of the auditors. While many of their recommendations were underway prior to the written report, we will continue to bolster the efforts of the Workforce Network of Kansas and improve system coordination to truly experience a workforce development system in Kansas that meets the needs of all Kansans.

Again, thank you for the opportunity to appear before you today. I stand for questions.

feeling valued as employees, or not agreeing with the Department's shift in focus from helping job seekers to helping businesses as reasons for leaving. In addition, exit interviews we reviewed cited some of the same issues.

The Department had replaced 35 staff who've left their positions. Employees who replaced transferred employees had less experience in workforce development, and generally were hired at the same or lower salaries. Most replacements came from outside the Department of Commerce, and their education levels were slightly better than the people they replaced.

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Since the transfer, fewer program specialist positions have been filled, and more higher-level positions have been created. *According to Department officials, some of the positions transferred from the Department of Labor have been reclassified, changed, or left vacant to reflect different agency needs following the reorganization. Since June 2004, a number of higher-level positions have been created and filled, including a Deputy Secretary position and 10 additional public service executive positions. By contrast, the Department had 23 fewer filled program specialist positions. Employees in these position typically provide direct services to job seekers.*

A number of current Department employees responding to our survey expressed concerns about unfilled direct-service positions. Department officials told us they are keeping positions vacant for several reasons—some are no longer needed, some are vacant because of known or anticipated cuts in federal funding for those positions, and some are vacant because the Department is trying to avoid lay offs when contractors take over administrative responsibility of the Workforce Investment Act in Areas 3 (Kansas City) and 5 (southeast Kansas).

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Question 2: Has the Department of Commerce Followed Requirements And Best Practices for Personnel Actions for Employees in the Divisions of Business and Workforce Development?

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The Department followed requirements and best practices for most of the personnel actions we reviewed. *We reviewed a sample of personnel-related actions that had occurred since the June 2004 transfer of workforce development programs and employees from the Department of Labor to the Department of Commerce. The Department followed requirements for hires, rehires, competitive promotions, terminations, performance rating appeals, and grievances.*

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