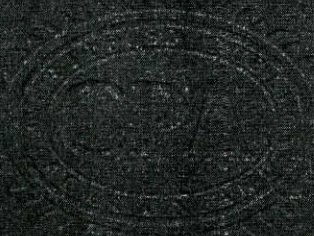


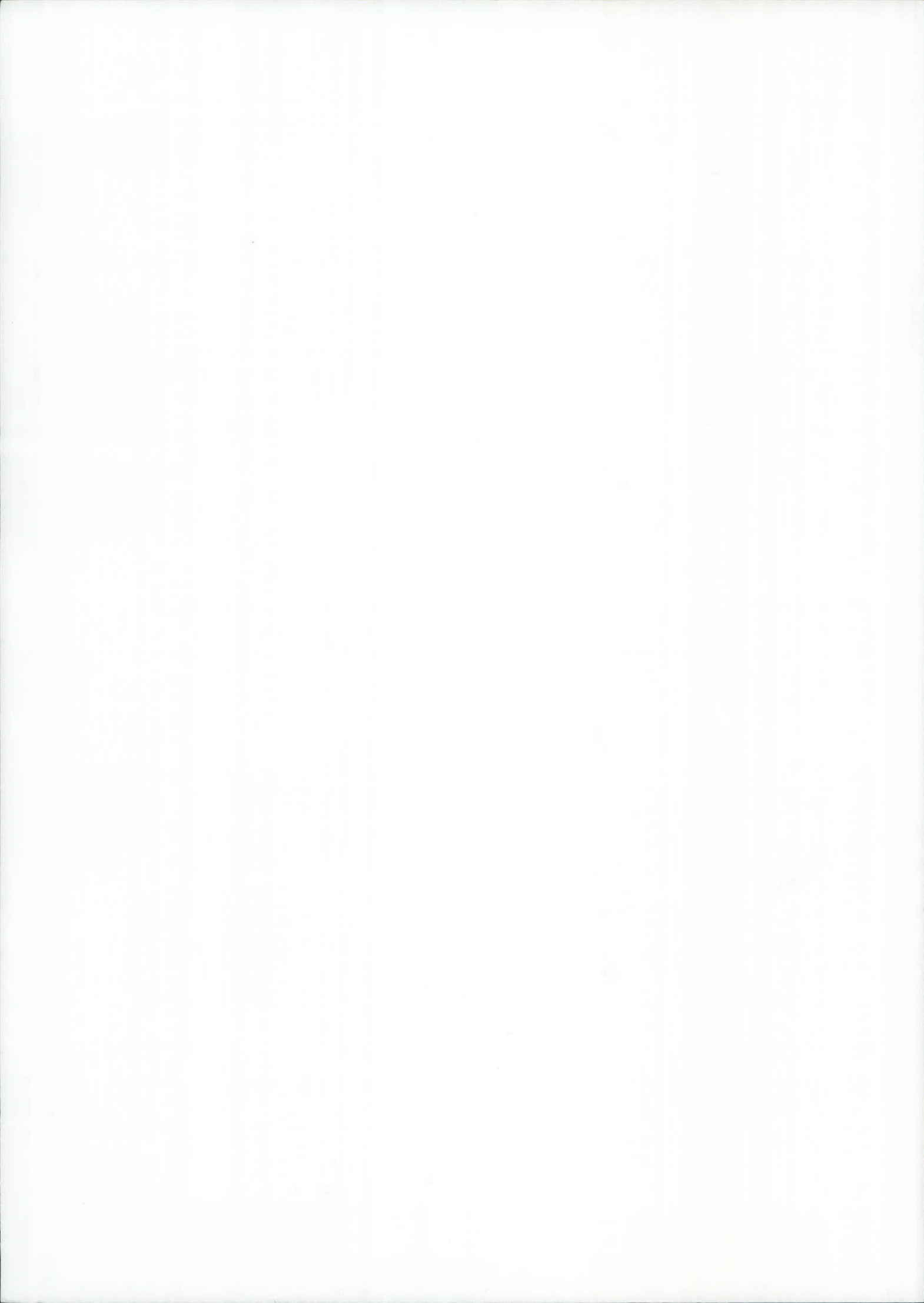
INTERNAL AUDIT OF THE
FIELD OPERATIONS AUDIT ADMINISTRATION
AS OF JANUARY 04, 2016

AT THE
TEXAS ALCOHOLIC BEVERAGE COMMISSION

(REPORT NO: TABC 016-001)



MONDAY RUFUS & CO., P.C.
CERTIFIED PUBLIC ACCOUNTANTS AND ADVISORS





MONDAY RUFUS & CO., P.C.
Certified Public Accountants & Advisors

Commission Members
Texas Alcoholic Beverage Commission
Austin, Texas

We have conducted an internal audit (audit) of the Field Operations Audit Administration at the Texas Alcoholic Beverage Commission (Commission) as of January 04, 2016. The results of our audit disclosed that the Commission has procedures and controls in place related to the Field Operations Audit Administration. We noted some opportunities for enhancing the controls in place in the Field Operations Audit Administration processes.

The report that accompanies this letter summarizes our comments and recommendations.

Monday Rufus & Co., P.C.

January 04, 2016
Austin, Texas

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Executive Summary

Background Information

In 1935, the Legislature created the Texas Alcoholic Beverage Commission (formerly the Texas Liquor Control Board).

The Texas Alcoholic Beverage Commission (Commission) is the state agency that regulates all phases of the alcoholic beverage industry in Texas. The duties of the Commission include regulating sales, taxation, importation, manufacturing, transporting, and advertising of alcoholic beverages.

The Commission collects in excess of \$200 million annually in taxes and fees. This revenue aids in the financing of the state's public schools, local governments, research, human services, and other areas in which state government provides services to all Texans and is deposited into the General Revenue Fund.

The TABC Field Operations audit administration is under the Audit Unit of the Audit & Investigations Division. The Audit Unit is overseen by a Director of Audit with personnel consisting mainly of field auditors. At the time of the internal audit the TABC Audit Unit had 47 Full-Time-Equivalent (FTE) employees.

The Audit Unit's primary responsibility is to ensure compliance with regulatory and tax requirements under authority of the Commission by initiating a variety of audits, conducting inspections and administering education initiatives all aimed at seeking voluntary compliance from taxpayers. The Audit Unit plays a role in:

- the initial phases of the licensing process, inspections, and fee analysis
- monitoring seller training schools to ensure compliance with agency standards
- conducting investigations and financial reviews
- assisting the Special Investigations Unit (SIU), Financial Crimes Unit (FCU), and Enforcement agents in various types of investigations
- providing training to permit holders and their employees
- delivering presentations to school children ranging from middle schools to universities, civic organizations, and other law enforcement agencies

Summary of Internal Audit Results

There are written policies and procedures being implemented for field operations audit administration functions and activities. Audit Unit auditors also follow the Commission's Audit & Investigations Division policies and procedures which are in place to provide reasonable assurance that the Commission is in adherence and compliance with state and federal requirements regarding field operations.

The Commission can enhance the Audit Unit's Field Training Program processes by ensuring compliance with the Field Training Program Manual regarding consistent evaluation reporting of Probationary Auditors during the Field Training Program phases.

There were no other deficiencies detected in the audit of the Field Operations Audit Administration that are significant to the objectives of this audit. Any insignificant issues noted have been communicated to the management of the Commission as required by *Government Auditing Standards*.

Summary of Management's Responses

Concur with the findings. The Audit Training Program was developed in house in December 2012 and put in to place in the field in April of 2013. In reviewing the files, it appears the training was taking place, but the documentation and filing of required reports was not consistent. We concur with your recommendations to correct problems in the documentation and filing of reports related to the training program. The ACFO will meet with the Director of Audit to review the FTA Program Procedures Manual to correspond with recent management changes along with implementing internal controls to ensure required reports are filed correctly. We should have this completed by May 31, 2016.

Objectives, Observations, Recommendations, and Management's Response

The primary objectives of the internal audit were:

1. Reliability and Integrity of Information
2. Compliance with Policies, Procedures, Laws, and Regulations
3. Safeguarding of Assets
4. Efficiency and Effectiveness of Operating Procedures

RESULTS AND RECOMMENDATIONS

Internal Audit Objective 1: Reliability and Integrity of Information

Internal Audit Objective 2: Compliance with Policies, Procedures, Laws, and Regulations

Finding 1: The Field Training Manual Procedures Are Not Being Complied With In The Training of Audit Unit Probationary Auditors:

Criteria:

The TABC's Field Training Program is for Audit Unit Probationary Auditors who are assigned to perform the Agency's general compliance duties and is designed to provide performance evaluation and training to Probationary Auditors. The Field Training Program consists of five (5) phases, with Phases I-IV each being completed within one (1) month, and Phase V completed within two (2) months for a total of six (6) months. During the Training Program's 5 phases the Probationary Auditor will be working under a Field Training Auditor (FTA). The Probationary Auditor is to be evaluated by the FTA after each of the 5 phases. The Field Training Program manual includes the following written policies and procedures:

1. The FTA is to prepare a 'Weekly Observation Report' (COM-FTA 001-005) and "Acknowledgement of Training" (COM-FTA 006-011) to document the progress of the Probationary Auditor.
2. The Region Office Audit Supervisor's Phase Report (SPR) COM-SPR is to be completed and signed, at the end of each training phase, scanned, and saved to the Probationary Auditor's folder in the TABC agency intranet.
3. The Field Training Program requires that a folder be kept for each Probationary Auditor.

4. At the completion of the Field Training Program, the Probationary Auditor's folder shall be sent to the Assistant Chief of Field Operations for review and to certify the Probationary Auditor's completion of the Field Training Program.
5. The Assistant Chief of Field Operations is to forward the Probationary Auditor's folder to the TABC Training Division who is to be the custodian of the training folder.

Condition:

1. Required Weekly Observation Reports (*COM-FTA 001-005*) and Acknowledgement Reports (*COM-FTA 006-011*) were not being consistently prepared after each phase for the Probationary Auditors by the assigned Field Training Auditors for the two Region Office locations tested.
2. Region Office Audit Supervisor's Phase Reports (SPR) COM-SPR are not being consistently completed after each of the 5 Field Training Program phases.
3. A Field Training Program folder is not being kept for each Probationary Auditor at the two (2) Region Office locations tested.
4. The Assistant Chief of Field Operations is not receiving a training folder from the Region Offices for Probationary Auditors completing the Field Office Training Program.
5. There are no controls in place to ensure consistent compliance with Probationary Auditors field training established policies and procedures.
6. The TABC Training Division has not received any folders or documents regarding Probationary Auditors after completion of the Field Training Program.

Effect:

1. Lack of consistency in compliance with the Audit Unit's Field Training Manual policies and procedures.
2. Lack of consistency in the field operations evaluation processes for Probationary Auditors.
3. Inconsistent chain of command procedures due to Field Training Manual not being updated to include current Audit Unit management changes.
4. Lack of documentation in the Training Division training files for training conducted and received by Audit Unit Probationary Auditors.
5. Audit Unit Probationary Auditors not receiving credit for training received if not documented in their training files.

Recommendations:

1. The Audit Unit's Field Training Program Manual should be updated to incorporate the management changes made in the Audit & Investigations Division which also affect the chain of command regarding

the Audit Unit's *Field Training Auditor (FTA) Documentation Reporting Procedures*. One of the recent management changes is the addition of the Audit Unit Director position.

2. Region Office Audit Supervisors should ensure that Field Training Auditors (FTAs) prepare the required evaluation forms for the Probationary Auditors after each of the 5 training phases.
3. Region Office Audit Supervisors should set up Probationary Auditor folders on the TABC intranet and monitor to ensure that each Probationary Auditor's folder is kept current during each of the five training program phases.
4. The Probationary Auditor training folder should be sent to the Training Division at the completion of the Probationary Auditor's Field Training Program.

Management's Response:

Concur with the findings. The Audit Training Program was developed in house in December 2012 and put in to place in the field in April of 2013. In reviewing the files, it appears the training was taking place, but the documentation and filing of required reports was not consistent. We concur with your recommendations to correct problems in the documentation and filing of reports related to the training program. The ACFO will meet with the Director of Audit to review the FTA Program Procedures Manual to correspond with recent management changes along with implementing internal controls to ensure required reports are filed correctly. We should have this completed by May 31, 2016.

Internal Audit Objective 3: Safeguarding of Assets

Matter for Further Consideration: Disposition of Confiscated/Seized Property Cases Stored In Evidence Room Safes Not Being Timely Tracked

On a quarterly basis, at a minimum, the Evidence Custodian will review all active evidence in the Evidence Room and provide the Audit Supervisor a list of evidence on hand. The Audit Supervisor will provide the active evidence list to the appropriate Enforcement or Investigations Supervisor for Certified Peace Officer (CPO) assignment to determine current case status. Case status from CPOs is obtained and provided to the Evidence Custodian in a timely manner (within 30 days.)

A comparison between current printouts of the logged seized serial numbers for the evidence/seized property and the items stored in each of the two Region Office locations Evidence Storage Room safes disclosed that some of the confiscated/seized property (including cash) had been stored in the safes for over ten years.

Criteria:

The TABC Field Operations Evidence Procedures (4/28/2015) requires that all active evidence be reviewed on a quarterly basis, at a minimum, with criminal cases where evidence was seized being tracked every 30 days to ensure adherence to the Code of Criminal Procedure (CCP§18.18) *Disposition of Gambling Paraphernalia, Prohibited Weapon, Criminal Instrument, and Other Contraband.*

Condition:

Audit Results: Region IV (Austin)

At the time of the internal audit there were 300 evidence items in the Evidence Storage Room safe dating from fiscal years 2004-2015. Seventy-two (72) 24% of the evidence items were from fiscal year 2004 and had been assigned to 17 Certified Peace Officers (CPOs) during that period; some of who may not be currently employed at TABC.

<u>Fiscal</u> <u>Year</u>	<u>Seized</u> <u>Serial #s</u> <u>Logged</u>	<u>Percent</u>
2015	33	11
2014	40	13
2013	26	09
2012	39	13
2011	11	04
2010	11	04
2009	08	02
2008	18	06
2007	21	07
2006	10	03
2005	11	04
2004	<u>72</u>	<u>24</u>
Totals	<u>300</u>	100%

According to the fiscal year 2015 *Chapter 59 Asset Forfeiture Report by Law Enforcement Agency* submitted by TABC to the Office of the Attorney General among the stored evidence included in the safe were \$4,335.12 (cash).

<u>Fiscal</u> <u>Year</u>	<u>Currency</u> <u>Items</u>	<u>Currency</u> <u>Amount</u>
2011	1	\$ 8.54
2010	2	52.00
2009	1	408.00
2006	4	884.00
2004	<u>12</u>	<u>2982.58</u>
Totals	<u>20</u>	<u>\$4335.12</u>

Audit Results: Region V (San Antonio)

At the time of the internal audit there were 169 evidence items in the Evidence Storage Room safe dating from fiscal years 2004-2014. Thirty-eight (38) 22% of the 169 seized serial numbers were assigned to envelopes containing a total of \$10,657.17 in cash dating back to fiscal year 2004.

<u>Fiscal</u> <u>Year</u>	<u>Seized</u> <u>Serial #s</u> <u>Logged</u>	<u>Percent</u>
2014	35	21
2013	06	04
2012	20	12
2011	23	14
2010	16	09
2009	07	04
2008	04	02
2007	16	09
2006	07	04
2005	11	07
2004	<u>24</u>	<u>14</u>
Totals	169	100 %

A Court Order dated November 8, 2013 from the Criminal District Court of Bexar County directed the Texas Alcoholic Beverage Commission to take possession and destroy 650 confiscated/seized items included in 120 TABC assigned seizure serial numbered cases. Confiscated/seized items for eighteen (18) of the seized serial numbers listed on the Court Order had not been destroyed as of the time of the internal audit. Included in the Court Order list were \$937.00 which were part of the \$10,657.17 in the Evidence Storage Room safe.

<u>Fiscal</u> <u>Year</u>	<u>Seized</u> <u>Serial Nos.</u>	<u>Cash</u> <u>Amount</u>
2009	118904	\$245.00
2008	102999	314.00
2007	111786	251.00
2004	082658	<u>127.00</u>
	Total	<u>\$937.00</u>

The Criminal District Court Order issued on November 8, 2013 only included cases with TABC seized serial numbers dates from 6/06/2007 through 09/11/2013. The evidence printout for the Evidence Storage Room safe listed confiscated/seized items ranging from 3/12/2004 through 07/15/2014.

Cause:

The status of older confiscated evidence cases are not being tracked on a timely basis as required by Section *V. Disposition* of the Field Operations Evidence Procedures used to determine if a case has been closed and/or adjudicated in order to destroy or sell court forfeited evidence.

Effect:

The chain of custody process may be at risk for active confiscated/seized property cases if the disposition status of the cases are not tracked on a timely basis. The chain of custody may also be affected by changes of Evidence Custodians and Certified Peace Officers over a long period of time (e.g. fiscal years.2004 through 2014).

There is the possibility of TABC receiving part or all of the seized cash stored in the Evidence Storage Room safes if the cases were closed by the courts and the evidence forfeited to TABC. These forfeited funds may be used to enhance compliance monitoring in the field operations program.

Closing of confiscated/seized evidence cases and disposal /destruction of evidence stored in the Evidence Storage Room safes would make needed space available to store seized evidence from recent cases.

Recommendation:

Confiscated/seized evidence in the two Region Office locations consisted mainly of narcotics, currency, and some weapons. Management should:

- a. Determine if the evidence cases starting from fiscal year 2004 through fiscal year 2015 are currently assigned to Certified Peace Officers
- b. Determine the current status for confiscated/seized cases stored in the Evidence Storage Room safes.
- c. Consider filing court motions for destruction of confiscated/seized evidence items stored in Evidence Storage Room safes.
- d. Determine if there are Memorandums of Agreement with the current, local District Attorneys regarding the sharing of these confiscated/seized evidence case funds or if the funds can be forfeited to the seizing agency.

Management Response: *Auditors basically serve as custodians for property that is seized or purchased as evidence by Enforcement Agents. The following recommendations were made in the audit:*

- a) ***Determine if the evidence cases starting from fiscal year 2004-2014 are currently assigned to Certified Peace Officers.***

Management Response: Every case is originally assigned to the officer that seized or purchased the evidence. It is their responsibility to follow up with the local legal authorities (court) to determine if and when the case associated with the evidence is settled. In most property issues, there are two cases, one administrative against the permit holder and one criminal that is filed against an individual associated with the location. The agency settles and tracks the

administrative. The agency is often at the mercy of local legal jurisdictions with it comes to settling criminal cases. Some can take years depending on the area of the state. The Confiscated Property Procedures Manual requires that the custodian prepare a quarterly report of items to be researched by Enforcement. This report is provided to local Enforcement Supervisors to be researched and updated for the possible disposition of evidence. Over time, Enforcement Agents, transfer within the agency, retire, or leave the agency for various reasons; thereby leaving the evidence unassigned to a specific agent to track through the legal system. In these cases, based on the quarterly reports provided to Enforcement, cases without a current COP are reassigned to another CPO to work. See Field Operations Evidence Procedures Manual – Section V – Dispositions.

- b) Determine the current status for confiscated/seized cases stored in the Evidence Storage Room safes. See response (a) above*
- c) Consider filing court motions for destruction for confiscated /seized evidence items stored in Evidence Store Room Safes*

Management Response: Based on Enforcement research, Custodians are currently responsibility for the destruction of evidence no longer needed for court. This will include assisting in filing court motions to provide for the disposition or sale of property depending on the nature of the property. Please see Field Operations Evidence Procedures Manual – Section V – Dispositions. A concerted effort will be made to ensure all property with case dispositions are scheduled for destruction.

- d) Determine if there are Memorandums of Agreements with the current, local District attorneys regarding the sharing of these confiscated /seized evidence case funds or if the funds can be forfeited to the seizing agency.*

Management Response: Historically across the state we have entered into MOU's with local jurisdictions to govern the sharing of forfeiture funds. We will request that our Enforcement management staff follow up with local jurisdictions to ensure existing MOU's are up to date and/or to pursue the implementation of new sharing agreements. The commission will consider assigning a Field Operations Manager to be in the primary responsible party for all Confiscated/Seized Property, Storage and Maintenance. In addition the Commission will consider adding Bar Codes to all confiscated/seized property to enhance accountability/safeguarding of such property.

Internal Audit Objective 4: Efficiency and Effectiveness of Operating Procedures

All audits and inspections conducted by the Probationary Auditors are in compliance with the Audit & Investigations Division Procedures Manual. Audits & inspections are inputted into the TABC intranet reporting system by the auditors, reviewed and approved by their supervisors and monitored by agency management.

Appendix 1

Objective and Scope

Objective

The audit objectives are to determine the following:

- Reliability and Integrity of Information
- Compliance with Policies, Procedures, Laws, and Regulations
- Safeguarding of Assets
- Efficiency and Effectiveness of Operating Procedures

Scope

The audit scope of the audit work included ensuring compliance with the Texas Alcoholic Beverage Code, TABC Field Operations Policies and Procedures, Audit Unit – Audit & Investigations Division Procedures Manual (Auditor Training Programs) and operating policies and procedures. The scope included interviews with the Commission’s Assistant Chief of Audit & Investigations Division, Audit Unit Director, Director of Training Division, and appropriate division and field operations personnel. Audit Unit auditors training files, Field Operations Region Office auditors training evaluation forms, and other pertinent reports and documents were tested for accuracy and compliance.

Methodology

Our procedures included collecting information and documentation; performing selected tests and other procedures; analyzing and evaluating the results of the tests; reviewing operating policies and procedures, laws, and regulations, conducting interviews with the appropriate staff of the Commission, testing for compliance with policies, procedures and laws, and review of other pertinent reports and documentation.

Information collected and reviewed included the following:

- Organizational chart for the Field Operations Audit Administration
- Listing of TABC five Region Office locations statewide
- Audit Unit – Audit & Investigations Division Procedures Manual
- TABC Field Training Auditor Manual (2013)
- Compliance Division Procedures Manual
- Field Operations Policy
- List of Audit Unit auditors attending the 2015 TABC New Auditor Academy Classes
- Training Division new Audit Unit auditors trainee files for fiscal year 2015

- Evaluation forms for Audit Unit auditor trainees from Region Offices
- Texas Alcoholic Beverage Commission Website
- Agency appropriations Fiscal Years 2015-2016

Procedures and tests conducted included the following:

- Interviewed Audit Unit personnel to obtain an understanding of the Audit Unit personnel functions, activities, and controls in place.
- Interviewed the Training Division staff to obtain an understanding of the 2015 TABC New Auditor Academy Classes functions, activities, and controls in place.
- Obtained and reviewed auditor trainees New Auditor Academy Classes files
- Tested for accuracy and completeness of auditor employee information in training files
- Tested and reviewed audit trainee evaluation forms and documents
- Obtained access to the Audit Unit – Field Training Auditor Manual in the TABC intranet system.
- Obtained and reviewed Field Operations audits and inspections reporting requirements.
- Tested for compliance with Audit & Investigations Division audit and inspections requirements
- Other pertinent reports and documents

Criteria Used included the following:

- Texas Alcoholic Beverage Commission Field Training Auditor Manual
- Audit Unit – Audit & Investigations Division Procedures Manual
- New Auditor Academy Classes trainee files
- Audit Unit – required auditor trainee evaluation forms
- TABC Intranet audits and inspections reporting requirements
- Texas Alcoholic Beverage Commission Website
- Review of Other pertinent reports and documents.

Other Information

Our internal audit was conducted in accordance with *generally accepted government auditing standards*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our internal audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our internal audit objectives. Our internal audit also conforms with the Institute of Internal Auditor's (IIA) *International Standards for the Professional Practice of Internal Auditing*.

Appendix 2

Background Information

In 1935, the Legislature created the Texas Alcoholic Beverage Commission (formerly the Texas Liquor Control Board).

The Texas Alcoholic Beverage Commission (TABC) is the state agency that regulates all phases of the alcoholic beverage industry in Texas. The duties of the Commission include regulating sales, taxation, importation, manufacturing, transporting, and advertising of alcoholic beverages.

The TABC collects in excess of \$200 million annually in taxes and fees, which aids in the financing of the state's public schools, local governments, research, human services, and other areas in which state government provides services to all Texans.

The Alcoholic Beverage Code, which was enacted to protect against involvement of the criminal element in alcoholic beverage trafficking authorizes the Texas Alcoholic Beverage Commission to:

- Grant, refuse, suspend, or cancel permits and licenses in all phases of the alcoholic beverage industry;
- Supervise, inspect, and regulate the manufacturing, importation, exportation, transportation, sale, storage, distribution, and possession of alcoholic beverages;
- Assess and collect fees and taxes;
- Investigate for violations of the Alcoholic Beverage Code and assist in the prosecution of violators;
- Seize illicit beverages;
- Adopt standards of quality and approve labels and size of containers for all alcoholic beverages sold in Texas;
- Pass rules to assist the agency in all of the above.

The Governor, with the advice and consent of the Senate, appoints three public members of the Commission for staggered six-year terms.

The Commissioners appoint an Executive Director who supervises the Commission's activities. The Commission's operating budget is prepared and approved by the Commission on an annual basis, whereas the State legislative appropriation request is determined every two years. Both the budget and appropriations are reviewed and approved by the State Legislature.

The Commission is divided into thirteen divisions: Executive; Field Operations – Enforcement, Audit & Investigations, Ports of Entry; Business Services; Education and Prevention; Human Resources; Information Resources; Legal Services/General Counsel; Licensing; Office of Professional Responsibility; Tax and Marketing; and Training. The Executive Division, which is headed by the

Executive Director, provides oversight of the Deputy Executive Director, Director of the Office of Professional Responsibility, and the Director of Communications and Government Relations. The other divisions report directly to the Deputy Executive Director while General Counsel reports directly to the Commissioners.

The Commission generates revenue from alcoholic beverage license and permit fees, alcohol beverages taxes, cigarette taxes, airline beverage tax, and revenue collected on audits. This revenue is deposited into the General Revenue Fund.

Appendix 3

Report Distribution

As required by Gov't Code 2102.0091, copies of these reports should be filed with the following:

Governor's Office of Budget and Planning

Attn: Kate McGrath
Phone: (512) 463-1778
Internalaudits@governor.state.tx.us

Legislative Budget Board

Attn: Ed Osner
Phone: (512) 463-1200
Ed.Osner@lbb.state.tx.us

State Auditor's Office

Attn: Internal Audit Coordinator
Phone: (512) 936-9500
iacoordinator@sao.state.tx.us

Sunset Advisory Commission

Attn: Ken Levine
Phone: (512) 463-1300
sunset@sunset.state.tx.us

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Sherry Cook, Executive Director