

OFFICE OF THE STATE INSPECTOR GENERAL
Report to
The Honorable Terence R. McAuliffe

Special Review
of the King School of Medicine Grant
from the Tobacco Region
Revitalization Commission

September 2016



June W. Jennings, CPA
State Inspector General
Report No. 2016-PR-015



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September 27, 2016

The Honorable Terence R. McAuliffe
Governor of Virginia
Patrick Henry Building, 3rd Floor
Richmond, Virginia 23219

Dear Governor McAuliffe:

Under *Code of Virginia* § [2.2-309.2](#), the Office of the State Inspector General (OSIG) is required to (i) review the condition of the Tobacco Region Revitalization Commission's (Tobacco Commission) accounting, financial, and administrative controls to ensure that the purposes set forth in Chapter 31 (§ [3.2-3100](#), et seq.) of Title 3.2 were lawfully achieved; (ii) investigate to resolve allegations of fraudulent, illegal, or inappropriate activities concerning (a) disbursements from the Tobacco Indemnification and Community Revitalization Endowment created pursuant to § [3.2-3104](#) and (b) distributions from the Tobacco Indemnification and Community Revitalization Fund created pursuant to § [3.2-3106](#); and (iii) detect fraud, waste, and abuse and take actions to prevent the same.

The initial report in response to this Code requirement ([OSIG Report 2013-PR-002](#)) included a finding on the proper use of restricted funds within a grant to King College that was transferred to the former King School of Medicine (KSOM), now known as the Alliance for Rural Health. During our follow-up review on the observations in that report ([OSIG Report 2013-PR-002 Follow Up](#)), we found that corrective action regarding the use of start-up funding had not been fully implemented. While reviewing the grant file at the time of the follow up, we also observed that an additional \$427,300 had been provided to the grantee with a significant portion advanced for salaries and consulting fees. Based on this observation we decided to conduct a special review of all payments related to this grant.

The report, which documents the results of the review, is attached. It shows that the Tobacco Commission paid \$973,289 to King College and the KSOM, of which \$445,989 were reimbursements and \$527,300 were advances. OSIG found that documentation for \$383,514 of the \$445,989 in reimbursements were not itemized invoices as required, and that verification of the actual use of the \$527,300 in advances did not occur. The Tobacco Commission did attempt to account for the

advanced funds and spent significant effort seeking to ensure those funds were properly used, but this effort did not include sufficient internal controls. Further, the deficiencies noted in this report regarding in-kind donations as matching funds should be mitigated going forward based on policy changes resulting from legislative action during the 2015 General Assembly. OSIG did not discover circumstances suggesting a reasonable possibility of fraud. However, the level of oversight and documentation supporting disbursements and matching funds created an environment where a fraud could occur and not be detected in a timely manner.

OSIG staff appreciates the assistance provided by the Tobacco Commission staff during this review, and King University's ongoing efforts to locate documentation to support reimbursements.

Please note that the Tobacco Commission staff were provided a draft of this report and had no comments to be included in the final version.

Sincerely,

June W. Jennings, CPA
State Inspector General

CC: Paul J. Reagan, Chief of Staff to Governor McAuliffe
Suzette P. Denslow, Deputy Chief of Staff to Governor McAuliffe
Todd Haymore, Secretary of Commerce and Trade
Delegate Terry G. Kilgore, Chairman of the Tobacco Region Revitalization Commission
Senator Frank M. Ruff, Vice-Chairman of the Tobacco Region Revitalization Commission
Evan Feinman, Executive Director, Tobacco Region Revitalization Commission

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Executive Summary

The Office of the State Inspector General (OSIG) found that \$973,289 was paid to King College and the King School of Medicine (KSOM). Of that, \$445,989 were reimbursements of incurred and paid expenses, and \$527,300 was advanced to KSOM because KSOM lacked cash needed to pay expenses that had been incurred. Given the money involved and KSOM's lack of cash, close oversight of KSOM's use of grant funds was needed.

The Tobacco Region Revitalization Commission's (Tobacco Commission) Grant Disbursement Guidelines require that reimbursement requests include itemized invoices. Documentation for \$383,514 of the \$445,989 in reimbursements was not in the form of itemized invoices. Tobacco Commission staff stated that they accepted the minimum documentation required for the reimbursement as King College was dealing with reputable firms in providing the services. Additionally, OSIG staff raised concerns about the value of donated services from third parties who were already owed money. Those concerns going forward should be mitigated by legislative action taken during the 2015 General Assembly.

For KSOM's requests for advances, documentation included outstanding bills and estimates of expenses. Tobacco Commission staff reviewed these requests for reasonableness. Following the advances, Tobacco Commission staff's documentation review did not include a verification that the advanced funds were disbursed by KSOM to vendors for the purposes and in the amounts indicated in the requests for advances.

OSIG did not discover circumstances suggesting a reasonable possibility of fraud. However, the level of oversight and documentation supporting disbursements and matching funds created an environment where a fraud could occur and not be detected in a timely manner.

OSIG staff reached these conclusions after:

- Obtaining copies of all payment vouchers and available supporting documentation from Tobacco Commission staff.
- Identifying pledged and available matching funds.
- Verifying whether expenses were supported by sufficient documentation and that no duplicate expenses were paid.
- Inquiring and meeting with Tobacco Commission staff to obtain answers to questions identified from the review of the payment vouchers.

Based on the conclusions reached, OSIG staff found it necessary to obtain additional information and related documentation from third parties including the original grantee, an architectural firm, and a university. After OSIG staff's review of the additional documentation, the amount paid to the original grantee without adequate support was reduced to \$62,216, but questions remained about the value of the donated services.

OSIG staff recommends that the Tobacco Commission staff:

- Complete their review of the advance funds to ensure they were used properly.
- Seek reimbursement of any remaining unsupported expenses.
- Improve the way matching funds in the form of donated services are accepted.

Purpose and Scope of the Review

The Office of the State Inspector General (OSIG) performed a review of the Virginia Tobacco Region Revitalization Commission as required by § [2.2-309.2](#), of the *Code of Virginia*:

The State Inspector General shall (i) review the condition of the Tobacco Region Revitalization Commission's accounting, financial, and administrative controls to ensure that the purposes set forth in Chapter 31 (§ [3.2-3100](#) et seq.) of Title 3.2 are lawfully achieved; (ii) investigate to resolve allegations of fraudulent, illegal, or inappropriate activities concerning (a) disbursements from the Tobacco Indemnification and Community Revitalization Endowment created pursuant to § [3.2-3104](#) and (b) distributions from the Tobacco Indemnification and Community Revitalization Fund created pursuant to § [3.2-3106](#); and (iii) detect fraud, waste, and abuse and take actions to prevent the same.

A special review was undertaken in response to this Code requirement to review all payments made to King College and to the former King School of Medicine, now known as the Alliance for Rural Health, from Commission Grant #1958 to ensure that all disbursements were reasonable, properly approved and adequately supported.

Background

OSIG's initial report in response to the Code requirement ([OSIG Report 2013-PR-002](#)) was issued on January 31, 2014. That review included an examination of internal controls over the Commission's grant award and payment process for the Revitalization Fund, and tests of transactions from grant projects that were initially opened between January 2011 and March 2013 or were closed between those same dates. Only a limited review was performed of the indemnification process as related claims for payment ended on June 30, 2012.

Prior Review of Grant #1958

Part of the testing that was conducted supporting the January 2014 report included attending Tobacco Commission and committee meetings on a sample basis during May and June 2013. During the May 2013 meeting of the Commission's Southwest Virginia Economic Development Committee, OSIG heard an update on Grant #1958 originally awarded to King College, then transferred to the former King School of Medicine, now known as the Alliance for Rural Health. The update centered on the change in management of the project to the King School of Medicine and questions were asked by the Committee members regarding the use of \$100,000 for salaries and consultants. As a result of these concerns, OSIG conducted a review of the grant file and concluded that \$545,989 had been expended from the grant without any building being built and specifically found that \$71,604 was spent on items that did not qualify as "restricted funds," which refers to the limitation of using the funds for capital expenditures. This resulted in an observation and recommendation in the January 2014 report.

During the follow-up review in 2015, OSIG found that corrective action regarding the use of start-up funding had not been fully implemented. While reviewing the grant file at the time of the follow up, OSIG observed that an additional \$427,300 had been provided to the grantee with a significant portion advanced for salaries and consulting fees. Based on this observation, OSIG decided to conduct a special review of all payments related to this grant.

History of the King School of Medicine and Alliance for Rural Health

The application process for Grant #1958 began in September 2009 when King College submitted a request for \$25 million to establish the "King School of Medicine and Health Sciences" in the Bristol and Washington County area. The school was expected to create 500 jobs and have an estimated \$60 million to \$100 million annual economic impact on the community and surrounding area. The Tobacco Commission awarded King College a \$25 million grant in October 2009 to aid in the construction of the medical school with a 50/50 match requirement. An extension through October 2011 was approved in October 2010 by the Tobacco Commission's former Executive Director to allow King College to secure matching funds. In September 2011, King College reported that it had secured matching funds of a combined \$15 million from Washington County and the Town of Abingdon, as well as a \$12.5 million non-cash contribution in the form of a long-term lease from the Southwest Virginia Higher Education Center. Shortly after this took place, a groundbreaking was held in Abingdon at Stone Mill Technology Park.

A legal entity called the King School of Medicine Inc. (KSOM) was formed in October 2011 as a wholly owned subsidiary of King College. KSOM was later established as a separate entity in May 2012 with a nine-member board of trustees established for oversight. An Interim President/Chief Operating Officer (COO) was appointed, and the initial KSOM officers were elected in June 2012. However, in May 2012, the Southwest Virginia Higher Education Center dissolved the long-term lease agreement leaving KSOM short of its required matching funds. In September 2012, King College ended their involvement with the KSOM, and the Town of Abingdon took over as the fiscal agent. At the same time, the Tobacco Commission approved the assignment of Grant #1958 to the KSOM contingent upon their ability to obtain not-for-profit status by the end of 2012.

In January 2013, KSOM reported to the Southwest Virginia Economic Development Committee that neither the matching requirements nor the not-for-profit status had been achieved. They also reported a major shift in the plans for the school. Instead of establishing a stand-alone institution, KSOM planned to partner with an existing medical school to eliminate the need for stand-alone accreditation. The Committee approved an extension for KSOM with a report describing partnerships and business plan to be submitted by May 15, 2013. In the interim, the not-for-profit status was granted in March 2013 retroactive to October 31, 2011, and KSOM established offices in the Virginia Highlands Small Business Incubator in Abingdon.

KSOM provided the report to the Southwest Virginia Economic Development Committee on its partnership and business plan in May 2013, but also reported that it had no cash on hand. The Committee voted to allow the grant to continue but capped the total expenditures from the grant at \$1 million and required KSOM to return in September 2013 with a report on private and other matching monies raised. In September, the Committee recommended, and the full Tobacco Commission approved, extension of the grant until January 2014 to allow for completion of a preliminary architectural report, and stated that no expenses beyond the meeting date of September 26, 2013, would be eligible for reimbursement. The final disbursement to KSOM was processed in December 2013.

KSOM announced to the Southwest Virginia Economic Development Committee at the January 2014 meeting that its name changed to the Southwest Virginia School of Medicine (SVSM). KSOM also announced a change in its partnerships to include the Town of Marion, Smyth County, and Buchanan County while lessening the partnership with the other medical school. The Committee recommended, and the full Tobacco Commission approved, that the life of the grant be extended to May 31, 2014, with a report due by May 1, 2014, on the business plan and financial information.

In May 2014, SVSM provided a new business plan that focused on a two-site facility — an unbuilt location in Abingdon and a former hospital building in Marion. SVSM also confirmed partnerships with two new educational institutions. The Southwest Virginia Economic Development Committee recommended the grant be rescinded, but the full Tobacco Commission approved an amended

motion to rescind \$5 million of the grant, freeze the remaining \$19 million, and require a progress report from SVSM in November 2014.

The SVSM progress report was provided in November 2014 changing its name to the Alliance for Rural Health. Another new plan was introduced basing the proposed operation back in Abingdon at the original Stone Mill Technology Park and naming the operation the Collaborative Health Science Center of Southwest Virginia. Details of that plan were to be presented to the Southwest Virginia Economic Development Committee in January 2015.

The Alliance for Rural Health presented an extensive report to the Southwest Virginia Economic Development Committee in January 2015, but during questioning from Committee members, it was disclosed that Washington County was suing to get \$50,000 returned. Concerns were expressed by the Committee members that the project scope had changed to the point that a new agreement should be established. The Committee recommended that Grant #1958 be rescinded and the full Commission rescinded the grant.

In August 2015, the Alliance for Rural Health submitted a new application to the Special Projects Committee, which was assigned project number 3084. The new application requested \$10 million in funding. However, as the budget for the Special Projects Committee was limited to \$3.3 million, the Tobacco Commission Staff recommended no action be taken on the application.

Subsequent Policy and Staffing Improvements

During the life of the project several changes were implemented by the Tobacco Commission staff that should have a positive impact on the deficient processes discussed in this report. According to the Grants Director, staffing in the field offices was increased in 2012 by adding grants assistants to review documentation supporting reimbursement requests. Further, the “Grant Policies for Applicants and Grantees” underwent two revisions, including those resulting from legislative action in the 2015 General Assembly, which established dollar-for-dollar matching funds and placed a 25 percent limit on in-kind donations as matching funds. This document also includes policies on changes to project scope and on specific expenses not eligible for reimbursement.

In addition, the Commission’s Strategic Plan was adopted on May 24, 2016. According to the Grants Director, the new strategic plan references current policy documents giving the weight of Commission approval to that document.

Review Methodology

OSIG staff conducted this review by:

- Obtaining copies of all payment vouchers and available supporting documentation.
- Verifying the total amount of all payments equaled amounts reported to OSIG by Tobacco Commission staff.
- Identifying pledged and available matching funds.
- Verifying whether expenses were supported by sufficient documentation and that no duplicate expenses were paid.
- Verifying whether sufficient matching funds, including in-kind contributions of land or donated services, existed when payments were made.
- Inquiring and meeting with Tobacco Commission staff to obtain answers to questions identified from the review of the payment vouchers.

Based on the conclusions reached from work performed under the above methodology, OSIG staff obtained additional information and reviewed related documentation from third parties including the original grantee, an architectural firm, and a university.

Review Results

Overall, OSIG staff found that while disbursements were properly approved, they were not always reasonable and properly supported. According to the Tobacco Commission’s Grant Disbursement Guidelines:

Adequate supporting documentation satisfactory to Commission staff shall be attached to all reimbursement requests and *must include itemized invoices* or substantially similar information from goods purchased or services performed based on the budget submitted with the application or revised budget approved by the Commission [emphasis added].

The Tobacco Commission disbursed a total of \$973,289 to King College and KSOM. Of that, \$445,989 were reimbursements according to the grant agreement. Documentation supporting \$383,514 of the reimbursements did not include detail needed to ensure services were related to the purpose of the grant. The remaining \$527,300 was advanced to pay expenses incurred but not paid by KSOM, as KSOM had no cash on hand to pay these bills. Tobacco Commission staff received documentation related to the advancements, but that documentation was not sufficient to verify that advanced funds were actually spent as intended.

Governmental organizations such as the Tobacco Commission are responsible for providing internal controls that are effective and efficient in managing risks. Depending upon the situation, risk may be avoided, reduced, shared or accepted. The very nature of the grant program presents risk, so risk avoidance would be counter to the purpose of issuing grants. Risk sharing is accomplished through match requirements. Given the amount of the grant, \$25 million, and the inherent risk of advancing money to an organization with no cash flow, risk levels are too high for risk acceptance to be an appropriate response. Therefore, the response to this level of risk should be to reduce. An approach to reducing risk would be holding KSOM to the requirement for itemized invoices for reimbursements and verifying that advances were used only to pay expenses for which the advance was made.

For Grant # 1958 King School of Medicine, six payments totaling \$973,288.93 were made as shown below.

PAYMENTS FROM GRANT 1958		
<i>Payment Date</i>	<i>Amount</i>	<i>Purpose of Payment</i>
January 26, 2012	\$244,005.92	Reimbursement for architectural, legal, & consulting expenses.
August 28, 2012	201,983.01	Reimbursement for architectural, legal, & consulting expenses.
January 28, 2013	9,164.66	Advance to cover travel expenses of the Interim President/COO.
January 28, 2013	90,835.34	Advance to cover consulting fees & salary of the Interim President/COO.
August 15, 2013	130,800.00	Advance to cover consulting, legal, payroll tax, & travel expenses, as well as the salary of the Interim President/COO.
December 20, 2013	296,500.00	Advance to cover consulting, legal, payroll tax, & travel expenses, as well as the salary of the Interim President/COO.
Total	\$973,288.93	

The January 26, 2012, and August 28, 2012, payments were made after the matching funds were pledged by the Town of Abingdon and Washington County, as well as the securing of the long-term lease with the Southwest Virginia Higher Education Center. However, the long-term lease had been dissolved by the Higher Education Center at the time of the August payment leaving only \$15 million (60%) of the total pledged match in place. Both of these payments were reimbursements of expenses incurred by King College on behalf of the KSOM. The expenses were for architectural, legal, and consulting services.

The two January 28, 2013, payments were an advance totaling \$100,000. Pledged matching funds remained the same as at the time of the August 2012 payment. As King College had separated itself from the KSOM, no money was available to pay bills that were owed. The former Executive Director in an email dated September 10, 2012, said he was prepared to “support incremental advances where match is somehow committed.” He suggested advancing \$100,000 at a time with the Town of Abingdon and Washington County sharing in the expenses. The advance was to cover consulting fees, travel expenses, and the salary of the Interim President/COO. The Grants Director approved the payment of these two vouchers in an email dated January 17, 2013. In doing so, he recognized \$125,000 of in-kind match consisting of donated services. However, these services were donated by two vendors who were owed money by KSOM. In effect, the in-kind match allowed the release of money to KSOM to pay these vendors at a discounted rate with no other matching funds involved. Since that time, limits of in-kind donations have been set by state law not to exceed 25 percent.

The August 15, 2013, payment was an advance of \$130,800. No change was noted in the pledged matching funds. Actual realized matching funds, as documented in an email from the Grants Coordinator on July 26, 2013, consisted of the \$28,300 in remaining in-kind match after the January 2013 payments plus \$50,000 from the Town of Abingdon, \$50,000 from Washington County, and \$2,500 in-kind match from a local university for donated services related to an economic impact study. The advance was to cover consulting, legal and travel expenses as well as the salary of the Interim President /COO plus payroll taxes.

The December 20, 2013, payment was an advance of \$296,500. No change was noted in the pledged matching funds. Actual realized matching funds, as documented in supporting schedules attached to the payment voucher, consisted of a state plan grant for \$250,000 and \$46,500 in net donated services from vendors. The advance was to cover consulting, legal and travel expenses as well as the salary of the Interim President /COO plus payroll taxes.

OSIG did not discover circumstances suggesting a reasonable possibility of fraud. However, the level of oversight and documentation supporting disbursements and matching funds, as detailed in the observations below, created an environment where a fraud could occur and not be detected in a timely manner.

OBSERVATION NO. 1 — ACCOUNT FOR USE OF ADVANCED FUNDS

Advances totaling \$527,300 were made by the Tobacco Commission to KSOM, but the proper use of the funds was not verified. These advances were made as KSOM had no operating funds following its separation from King College. The Tobacco Commission's former Executive Director authorized the initial \$100,000 advance and indicated support of future advances in \$100,000 increments. The Tobacco Commission staff issued the initial \$100,000 advance, and then continued to advance money beyond the established increments to KSOM when matching funds in the form of cash or donated services were identified.

When requesting advanced funds from the Tobacco Commission, KSOM would supply detailed supporting documentation of how the advance was to be used. In some instances the documentation supporting each new advance was in the form of outstanding bills and reimbursements, while in other instances, the documentation was an estimate of the expense. Tobacco Commission staff reviewed these requests to ensure they were reasonable; however, they were more focused on whether disbursements could be matched and did not follow up after each advance to determine how the funds were used.

Based on OSIG's review of supporting documentation, a summary of how previously received Commission funds were allocated in KSOM's total expenditures was included for the August 15, 2013, advance but not for the December 20, 2013, advance. Copies of checks issued by KSOM from the previous advance were included with both of these advance requests, but the total of these checks did not add up to the total advanced plus locally matched funds. The amount of checks accompanying the August 15, 2013, advance was short by \$51,719 from the prior advance, while the December 20, 2013, advance was short by \$51,925 from the prior advance.

As a result of the OSIG Special Review, Tobacco Commission staff requested and received a listing of all payments made by KSOM. The Commission ensured the total amount of the funds advanced to KSOM were disbursed by them, but did not match disbursements to supporting documentation to ensure that the funds were properly used. The Grants Director informed OSIG in an email dated April 7, 2016, that Tobacco Commission staff was satisfied that "the grant funds have been adequately documented" based on the documentation provided with the advances combined with their verification that all of the funds were disbursed.

OBSERVATION NO. 1 RECOMMENDATION

The Tobacco Commission staff should match the KSOM disbursements to supporting documentation to verify that advanced funds were properly used by KSOM. Repayment should be sought for any advanced funds that were not properly used or supported.

OBSERVATION NO. 2 — REQUIRE SUFFICIENT SUPPORTING DOCUMENTATION

The January 26, 2012, and August 28, 2012, reimbursements to King College were primarily for consulting and legal fees. The review of these reimbursements identified several instances where lump-

sum invoices with no details were accepted as documentation supporting the expenditure. In a sufficient internal control setting such invoices would have supporting details as to how the total amount was derived. A total of 24 invoices amounting to \$383,514 — for legal and consulting services with no explanation of the services provided — were identified. The Grants Director explained that the Tobacco Commission elected to accept the minimal supporting documentation and trust the validity of the expenditures as the invoices were from respected firms in their fields. OSIG then contacted the original grantee and obtained additional supporting documentation for the lump-sum invoices.

OSIG's review determined that the bills totaling \$293,303 for legal fees were adequately supported by detailed records of the activities of the attorneys involved in the work. However, no supporting invoices were found for travel expenses totaling \$10,129.

The review also determined that of bills totaling \$80,083 from the design-build contractor, only \$27,996 was adequately supported. The subcontractor consultant fees totaling \$44,000 were not supported by any record of work performed. Other expenses, mainly appraisal fees and some travel expenses for the consultant, totaling \$8,087 were also not supported.

Where receipts for travel expenses of the subcontractor were found, purchases of alcohol and dinners without a list of those attending were noted. For example, it was noted that in one instance \$242.40 for a party of two included \$50 for alcohol, while in another instance \$137.59 for an undetermined party size included \$47.50 for alcohol. A third instance was noted for a party of two where the total of \$71.94 was for alcohol only plus tip.

The bills from the design-build contractor also included a line item for "HUB Land Deposit" for \$25,000. Tobacco Commission staff did not know whether this deposit was eventually recovered by King College or if the deposit was forfeited when the site location subsequently changed. Based on additional supporting documentation obtained by OSIG from King University (formerly King College), the \$25,000 deposit was related to a purchase and sale agreement binding the property for purchase through December 31, 2011. As that date has passed without the purchase of the property, OSIG concluded that the deposit was forfeited. Additionally, OSIG noted that King College was not listed as the purchaser in the agreement. A third-party real estate company was listed as the purchaser.

After the additional review performed by OSIG, a total of \$62,216 of the \$383,514 was still unsupported.

OBSERVATION NO. 2 RECOMMENDATION

For all current and future grants, Tobacco Commission staff should require supporting documentation for consulting and legal fees that reasonably ensures that reimbursements are for work supporting the purpose of the grant. Where travel is involved, Tobacco Commission staff should ensure that such expenses are in compliance with state travel regulations, are reasonable,

and will sustain public scrutiny. Additionally, Tobacco Commission staff should seek additional documentation from King University to support the \$62,216 in unsupported charges or seek reimbursement if that cannot be provided.

OBSERVATION NO. 3 — VERIFY VALUE OF DONATED SERVICES

Of the matching funds identified for the January 28, 2013, and December 20, 2013, advances, \$230,800 was in donated services. Of that amount, \$228,300 was from vendors who were owed money by KSOM that agreed to donate 50 percent or more of the value of their services. The remaining \$2,500 was a discount from a university to conduct an economic impact study at 50 percent of the estimated cost. As the value of the match was based on assertions by vendors, OSIG attempted to verify the value of the donated services through reviewing documentation included in the request for the advance or by contacting the donor directly. OSIG results from the review of each donation are below.

- A. A donation of \$53,500 was made by an architectural firm that was owed \$117,000. This provided a portion of the matching funds for the January 28, 2013, advance. Based on the invoice supplied by the firm dated January 3, 2013, the work was for services rendered under a retainer agreement also dated January 3, 2013. The services were rendered as Project #10883-01 between May 2010 and January 2013 with \$10,000 previously invoiced and paid. Of the remaining \$107,000, \$53,500 was donated with the other \$53,500 billed to KSOM. OSIG was unable to confirm the value of the donation, as support for the \$117,000 in services as detailed documentation of work performed could not be provided by either the firm or KSOM.

However, during the course of our work, OSIG found that the architectural firm was also paid \$220,000 for similar services that were reimbursed by the Department of Housing and Community Development (DHCD) in February 2014 under Project #12992-00. That \$220,000 from DHCD was used as match for the December 2013 advance, but OSIG was not able to determine why the \$220,000 match was reduced by \$53,500 unless the payment was for the same work billed under two different project numbers. If that were the case, the architectural firm was potentially paid for services they previously donated.

- B. A donation of \$74,800 was made by a consultant who claimed KSOM owed \$124,800 to him for services from April 2011 to May 2012. This provided a portion of the matching funds for the January 28, 2013, advance. As support, the consultant provided KSOM a handwritten sheet containing a listing of hours worked by month from April 2011 to May 2012. KSOM executed a written letter of agreement to settle with the consultant for \$50,000 and recognize the remaining balance as a donation. OSIG was unable to confirm the value of the services based on the documentation provided as support by the consultant to KSOM.

However, during the time the consultant claimed he was working for KSOM, he was working as a subcontractor to a construction firm hired by KSOM and was being paid \$4,000 per month plus expenses. OSIG was not able to determine why a settlement was made by KSOM instead of the consultant seeking settlement from the prime contractor.

- C. A donation of \$2,500 was purportedly made by a university who agreed to only charge one-half the cost for a requested economic impact study. This amount provided the remaining portion of the match for the January 28, 2013, advance. However, that study never took place and the donation never materialized.
- D. A donation of \$100,000 was made by a legal firm that was owed \$150,000. This amount made up a portion of the match for the December 20, 2013, advance. The remaining \$50,000 was requested by KSOM as advanced funds for payment in the December 2013 advance. OSIG compared the value of the donated services to services provided by other firms to the original grantee and found them comparable.

Code of Virginia § [3.2-3103](#) was amended by SB 1440 during the 2015 General Assembly to limit in-kind donations to 25 percent of the total matching funds.

OBSERVATION NO. 3 RECOMMENDATION

In the future, the Tobacco Commission staff should take more care to verify the validity of donated services before counting them as matching funds.