



Office of the Washington State Auditor
Pat McCarthy

Whistleblower Investigation Report
Department of Agriculture

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November 27, 2017

Derek Sandison, Director
Department of Agriculture

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 17-020 at the Department of Agriculture.

The State Auditor's Office received an assertion of improper governmental activity at the Agency. This assertion was submitted to us under the provisions of Chapter 42.40 of the Revised Code of Washington, the Whistleblower Act. We have investigated the assertion independently and objectively through interviews and by reviewing relevant documents. This report contains the result of our investigation.

If you are a member of the media and have questions about this report, please contact Assistant Director for Communications Kathleen Cooper at (360) 902-0470. Otherwise, please contact Whistleblower Manager Jim Brownell at (360) 725-5352.

Sincerely,

Pat McCarthy
State Auditor
Olympia, WA

cc: Governor Jay Inslee
Julie Youmans, Human Resources Director
Kate Reynolds, Executive Director, Executive Ethics Board
Jacque Hawkins-Jones, Investigator

WHISTLEBLOWER INVESTIGATION REPORT

Assertion and results

Our Office received a whistleblower complaint asserting a Washington State Department of Agriculture (Department) program manager (subject) allowed a custom slaughterhouse to operate without a license. While operating without a license, the custom slaughterhouse received five failing food safety inspections from 2014 to November 2016. Additionally, the complaint asserted the custom slaughterhouse began operating under a new name and the subject directed staff to issue a license based on an inspection done under its prior name.

We found no reasonable cause to believe an improper governmental action occurred.

Background

The Department's Food Safety program licenses custom meat facilities (facilities) to slaughter and process animal meat for the sole consumption of the animal's owner. The Department issues licenses for three custom meat categories:

- Custom meat facility – processes inspected or uninspected meat for the sole consumption of the owner
- Custom farm slaughter – a mobile unit that travels to the owner's farm or an approved site to slaughter animals for the owner
- Custom slaughter establishment – a fixed facility to slaughter animals for the owner

According to state law (RCW 16.49.035), before beginning operation the facility must apply for a license under at least one of the categories above, pay a licensing fee and pass a pre-license inspection. Licenses expire June 30 of each year.

The Department categorizes custom meat facilities and slaughter establishments as high risk and inspects them yearly. The Department inspector examines the facility grounds to ensure the facility meets sanitary and safety guidelines and deducts points based on the severity of a violation. To pass an inspection, the facility must score at least 90 points of a possible 100. However, a failing inspection does not preclude a facility from continuing its operations.

About the Investigation

We reviewed the subject's emails and examined licensing documents. We met with a training and compliance coordinator – referred by Department management – who is an expert in the facility inspection process.

Facility 1 was issued its first business license in 2009, with an expiration date of June 30, 2010. We found from July 1, 2011, through June 30, 2016, Facility 1 operated without a business license.

The subject said she became aware Facility 1 was operating without a license in 2013. She said she worked with the Department's Office of Compliance and Outreach to assist the facility in renewing its license.

According to the subject, the Department cannot force a facility to renew its license. Both the subject and the expert said the Department has no authority to shut down a facility operating without a license. The expert said only the United States Department of Agriculture, the county sheriff or county health department could force a facility to cease operations, based on the quality of the meat sold to the public. These entities do not enforce licensing of custom meat facilities.

Because the Department lacks the authority to force a custom meat facility to maintain a current license, we found no reasonable cause to believe the subject committed an improper governmental action.

Regarding the failed inspections, the Department expert said Facility 1 never passed its inspections from May 2014 to November 2016.

The subject said the Department actually has no legal authority to re-inspect the facility grounds after the pre-license inspection and only does so when a facility allows them entry.

As with its lack of authority to compel a facility to remain licensed, the Department also lacks authority to close down a custom meat facility based on a failed inspection. The United States Department of Agriculture, the county sheriff and county health department have the authority to address this issue.

Regarding the issuing of a new business license based on a prior inspection, the subject said the owners of Facility 1 sold their business to a relative who applied for a license as Facility 2. Because Facility 1 had passed an inspection six weeks prior to the change in ownership, the subject made the decision to waive the pre-license inspection. She said there was "nothing precluding me in law" from making the decision to use the same inspection for the new business.

The expert said the pre-license inspection is to ensure the structural and sanitary components are present at the facility. He said because Facility 1 passed an inspection six weeks prior to Facility 2's licensure, it was reasonable for the subject to use that inspection as the pre-license inspection.

We found no reasonable cause to believe improper governmental actions occurred.

State Auditor's Office Concluding Remarks

We thank Department officials and personnel for their assistance and cooperation during the investigation.

WHISTLEBLOWER INVESTIGATION CRITERIA

We came to our determination in this investigation by evaluating the facts against the criteria below:

RCW 16.49.035 – Custom slaughtering and custom meat licenses – Generally, states in part:

- (1) It is unlawful for any person to operate as a custom farm slaughterer or to operate a custom slaughtering establishment or custom meat facility in the state without first obtaining a license from the director. Custom farm slaughterers must obtain a separate license for each mobile unit. Separate licenses are required for each custom slaughtering establishment and custom meat facility.
- (4) Initial issuance of a license requires a prelicense inspection by the director for compliance with this chapter and rules adopted under this chapter. A license shall only be issued after an applicant is found to be in substantial compliance with this chapter and rules adopted under this chapter.
- (5) Licenses issued under this chapter expire June 30th of each year.
- (6) Licenses issued under this chapter are not transferable.