



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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November 20, 2024

Robert Evnen
Nebraska Secretary of State
PO Box 94608
Lincoln, NE 68509

Dear Mr. Evnen:

As you may know, the Nebraska Auditor of Public Accounts (APA) has received multiple concerns regarding expenses related to trade missions, including those to Kenya in February 2024, undertaken by the Secretary of State. As a result, the APA began limited preliminary planning work to determine if a full financial audit or attestation would be warranted. Pursuant thereto, the APA obtained financial records and other relevant documentation from the Secretary of State's office. Based on the outcome of this preliminary planning work, including an analysis of the information obtained, the APA has determined that a separate financial audit or attestation is unnecessary at this time.

Nevertheless, during the course of the preliminary planning work, the APA noted certain issues that merit corrective action.

Background Information

The Secretary of State provides a variety of important services to Nebraska's public and private sectors alike, as authorized by the Constitution and statutes of this state. The Secretary of State is the Chief Election Officer, Chief Records Officer, and Keeper of the Great Seal of the State of Nebraska. In addition, the Secretary of State serves by constitutional or statutory directive as the Secretary of the Pardons Board, Chairman of the Real Estate Commission, Chairman of the State Records Board, a permanent member of the Accountability and Disclosure Commission, Chairman of the Collection Agency Licensing Board, a non-voting ex-officio member of the Brand Committee, and a member of the State Canvassing Board. Lastly, the Secretary of State functions as Nebraska's Chief Protocol Officer, acting in that capacity as a goodwill ambassador and promoting commercial, educational, and cultural exchanges between the State of Nebraska and other countries.

As Nebraska's Chief Protocol Officer, the Secretary of State has conducted several trade investment missions to such countries as the United Arab Emirates, Bulgaria, Jordan, and Kenya. The following is a timeline of trade investment missions undertaken or planned by the Secretary of State since January 1, 2022:

- **February 8, 2022 – February 18, 2022:** Traveled to Dubai and Jordan for a Middle East and North Africa (MENA) region trade mission.
- **June 26, 2022 – July 2, 2022:** Traveled to Bulgaria as a follow-up to a prior trade mission to the region.
- **October 31, 2022 – November 4, 2022:** Participated in the U.S. Department of Agriculture's trade mission to East Africa, with stops in Nairobi, Kenya, and Tanzania.
- **October 13, 2023 – October 27, 2023:** Planned to travel to Israel and Jordan as a part of another trade mission in the Middle East. However, this was cancelled due to the armed conflict between Israel and Hamas-led Palestinian militant groups that began earlier that month.
- **February 12, 2024 – February 22, 2024:** Traveled to Kenya for a second trade mission to the country.
- **September 21, 2024 – September 28, 2024:** Just completed this most recent trade mission to Taiwan.

The table below provides a summary of the expenses paid with State funds related to the February 2024 Kenya trade mission:

Date	Payee/Explanation	Business Unit Name	Object Acct Name	Amount
2/2/2024	Trademark Hotel*	USDA EMP Grant Kenya Corn	Lodging	\$2,250.00
2/2/2024	Trademark Hotel*	USDA EMP Grant Kenya Corn	Lodging	\$2,250.00
2/2/2024	Trademark Hotel*	USDA EMP Grant Kenya Corn	Lodging	\$2,250.00
2/2/2024	Trademark Hotel*	USDA EMP Grant Kenya Corn	Lodging	\$2,250.00
2/2/2024	Trademark Hotel*	USDA EMP Grant Kenya Corn	Lodging	\$2,250.00
2/6/2024	Kitty Hawk Travel Inc.	USDA EMP Grant Kenya Corn	Commercial Transportation	\$34,356.50
2/6/2024	Kitty Hawk Travel Inc.	USDA EMP Grant Kenya Corn	Contractual Serv – Travel Exp	\$875.00
2/29/2024	Sycamore Investments	USDA EMP Grant Kenya Corn	Mgt Consultant Services	\$8,000.00
2/29/2024	Sycamore Investments	USDA EMP Grant Kenya Corn	Contractual Serv – Travel Exp	\$384.58
3/4/2024	Trademark Hotel*	USDA EMP Grant Kenya Corn	Rent Exp-Other Real Prop	\$700.00
3/4/2024	Trademark Hotel*	USDA EMP Grant Kenya Corn	Food Expense-Institutions	\$1,911.29
3/4/2024	Trademark Hotel*	USDA EMP Grant Kenya Corn	Lodging	\$1,500.00
3/4/2024	Trademark Hotel*	USDA EMP Grant Kenya Corn	Lodging	(\$250.00)
3/4/2024	Mufasa Tours And Travel*	USDA EMP Grant Kenya Corn	Commercial Transportation	\$8,391.60
4/2/2024	Trademark Hotel*	USDA EMP Grant Kenya Corn	Rent Exp-Other Real Prop	\$1,400.00
4/4/2024	Evnen, Robert B.	USDA EMP Grant Kenya Corn	Food Expense-Institutions	\$295.72
4/4/2024	Evnen, Robert B.	USDA EMP Grant Kenya Corn	Meals - Travel Status	\$338.00
4/4/2024	Evnen, Robert B.	USDA EMP Grant Kenya Corn	Personal Vehicle Mileage	\$93.80
4/5/2024	Allen, Cynthia L.	USDA EMP Grant Kenya Corn	Food Expense-Institutions	\$146.78
4/5/2024	Allen, Cynthia L.	USDA EMP Grant Kenya Corn	Meals - Travel Status	\$342.16
4/10/2024	Federal Express Corporation	USDA EMP Grant Kenya Corn	Postage Expense	\$124.28
Total				\$69,859.71

* These expenses were paid using a Secretary of State purchasing card.

Note: The Secretary of State was reimbursed a total of \$68,860.43 from the United States Department of Agriculture (USDA) through an Emerging Markets Program (EMP) grant for the Kenya trade mission. The only items not covered by the EMP grant were the \$875 payment to Kitty Hawk Travel Inc. and the postage expense of \$124.28 to the Federal Express Corporation listed above.

Along with members of his own staff, the Secretary of State often invites other state agency employees, University personnel, and business leaders to accompany him on these trade missions. In the past, these outside attendees paid registration fees to the NebraskaLand Foundation. According to its website (www.nebraskalandfoundation.org), the NebraskaLand Foundation was organized in 1962 and operates as “a nonprofit corporation with the Governor as the honorary chairperson.” The NebraskaLand Foundation’s mission is “to promote Nebraska through programs and awards which celebrate the State’s social, historical, cultural, educational and economic heritage.” Registration fees for attendees other than the Secretary of State and his staff were paid to the NebraskaLand Foundation for the first several trade investment missions; however, beginning on July 14, 2022, the registration fees for subsequent trade missions were to be paid to a different nonprofit corporation, the Nebraska Secretary of State Foundation.

The Nebraska Secretary of State Foundation (Foundation) was incorporated on June 6, 2022, and is comprised of five board members. The Foundation’s Articles of Incorporation set out the organization’s purpose, as follows:

To support the Secretary of State in the performance of his or her responsibilities as the Chief Protocol Officer of Nebraska, to support trade missions to and from the State of Nebraska and otherwise assist the Secretary of State’s office in furthering their statutory responsibilities for the good of the citizens of Nebraska[.]

Since its incorporation, the Foundation has been utilized to receive and expend funds for the trade investment missions described above. The corresponding bank account activity for the Foundation, from its creation on July 7, 2022, through July 31, 2024, is detailed in the table below:

Month	Deposits/Other Credits	Checks/Other Debits	Balance
Beginning Balance			\$0.00
July 2022	\$9,335.73	\$0.00	\$9,335.73
August 2022	\$1,951.20	\$5,117.00	\$6,169.93
September 2022	\$0.00	\$1,117.47	\$5,052.46
October 2022	\$0.00	\$0.00	\$5,052.46
November 2022	\$11,000.00	\$0.00	\$16,052.46
December 2022	\$0.00	\$3,855.16	\$12,197.30
January 2023	\$0.00	\$0.00	\$12,197.30
February 2023	\$0.00	\$0.00	\$12,197.30
March 2023	\$0.00	\$0.00	\$12,197.30
April 2023	\$30,000.00	\$0.00	\$42,197.30
May 2023	\$0.00	\$0.00	\$42,197.30
June 2023	\$0.00	\$53.00	\$42,144.30
July 2023	\$5,000.00	\$0.00	\$47,144.30
August 2023	\$0.00	\$0.00	\$47,144.30
September 2023	\$10,000.00	\$10,060.00	\$47,084.30
October 2023	\$0.00	\$0.00	\$47,084.30
November 2023	\$0.00	\$0.00	\$47,084.30
December 2023	\$0.00	\$2,500.00	\$44,584.30
January 2024	\$1,800.00	\$0.00	\$46,384.30
February 2024	\$5,200.00	\$6,487.52	\$45,096.78
March 2024	\$500.00	\$0.00	\$45,596.78
April 2024	\$5,000.00	\$0.00	\$50,596.78
May 2024	\$0.00	\$0.00	\$50,596.78
June 2024	\$1,350.00	\$1,365.50	\$50,581.28
July 2024	\$898.00	\$0.00	\$51,479.28
Total Bank Activity	\$82,034.93	\$30,555.65	

Individual transaction detail for this bank account has been included herein as **Exhibit A**.

The following comments and recommendations, which have been discussed with the Secretary of State and the appropriate members of his office management, are intended to improve internal control or result in other operating efficiencies.

Comments and Recommendations

1. Questionable Use of State Funds

During our examination, the APA noted the following payment to the Foundation for the Secretary of State's trade investment mission to Kenya in February 2024:

Date	Amount	Deposit Slip Description	Payor	Check #	Check Date
3/15/2024	\$500.00	NE Corn Board - Kenya Trade Mission	State of Nebraska	25951412	3/12/2024

This \$500 payment from the Nebraska Corn Board (Corn Board) was prompted by an email message received from the Deputy Secretary of State on January 16, 2024, asking the following:


We are holding an evening reception on February 21 at the Trademark Hotel in Nairobi Kenya. Would the Nebraska Corn Board be able to be one of the reception sponsors?

The Director of the Corn Board replied later that same day, as follows:

As for the reception, can you please give me an estimate of cost for food, NO alcohol...


After receiving some preliminary estimates from the Deputy Secretary of State, the Director determined that the Corn Board could provide \$500 to assist with food costs. The Deputy Secretary of State responded that a check could be made out to the Foundation; however, the Director replied that the Corn Board would need an invoice for the amount.

On February 6, 2024, the Executive Assistant to the Secretary of State emailed the following invoice to the Corn Board:

	STATE OF NEBRASKA
ROBERT B. EVNEN SECRETARY OF STATE	P.O. Box 94608 State Capitol, Suite 2300 Lincoln, NE 68509-4608 Phone: 402-471-2554 Fax: 402-471-3237 www.sos.ne.gov
February 5, 2024	
Kelly Brunkhorst, Executive Director Nebraska Corn Board 245 Fallbrook Blvd, Suite 204 Lincoln, Nebraska 68521-6729	
INVOICE	
<u>Secretary of State Trade and Investment Mission to Kenya</u>	\$500.00
Please make checks payable to the Secretary of State Foundation	
Mailed to: Secretary of State Foundation Jim Watts, President Watts and Hershberger, PC 5555 South Street Lincoln, NE 68506	
Thank you.	

The Corn Board Director authorized the \$500 payment the next day, on February 7, 2024, and the check was deposited into the Foundation's bank account on March 15, 2024. The only payment out of the Foundation's bank account to the Trademark Hotel, however, was a \$1,514.52 wire transfer on February 2, 2024. This wire transfer was for the payment of alcohol and other beverages at the reception, including wine, whisky, gin, vodka, lager, sodas, water, and juices.

Shown below is an image of the Trademark Hotel invoice paid by the Foundation for the purchase of alcohol, among other beverages:



trademark
an intellectual property by Tribe

P.O BOX .1333, 00621 NAIROBI, KENYA
TEL: +254 020-7200000 FAX: +254 020-7200110
VAT No.0181411G
PIN No.P051216196K

PROFORMA INVOICE

DATE: January 30, 2024
INVOICE **TRB00-352**

Email: Salescoordinator@tribehotelsgroup.com
Phone: (+254) 102367741

BILL TO: US Embassy - State of Nebraska
Email: Cindi.Allen@nebraska.gov
Contact Person Ms. Cindi Allen


DATES	DESCRIPTION	NO. OF DAYS	QUANTITY	RATE - KES	AMOUNT- KES
21st Feb 2024	Bella Vino - sweet Red	1	2	4,000	8000.00
	Bruce Jack Cab Sauv	1	3	4,500	13500.00
	Pequena Vasija	1	3	4,500	13500.00
	Bella Vino - Sweet white	1	2	4,500	9000.00
	Bruce Jack Sauv Blanc	1	3	4,000	12000.00
	Decanal Chardonnay	1	3	4,500	13500.00
	Decanal Pinot Grigio	1	3	4,500	13500.00
	Glenlivet 12 whisky	1	2	17,000	34000.00
	Tanqueray Sevilla gin	1	3	8,000	24000.00
	Absolute Blue vodka	1	3	7,000	21000.00
	Still/ sparkling water	1	75	200	15000.00
	Assorted juices	1	40	350	14000.00
	Assorted sodas	1	25	250	6250.00
	Tusker Lager	1	75	500	37500.00

Bank	Kenya Commercial Bank
Branch	Village Market
Account Name	Tribe Hotel Limited - A/C NO 2
KES Account	██████████
USD \$ Account	██████████
EUR € Account	██████████
SWIFT Code	██████████

Total Amount	234,750.00
Net Amount	215,366.97
VAT @16 %	620.69
S/Charge @7%	15,075.69
T/Levy @2%	4,307.34
BALANCE DUE	234,750.00
Amount in USD	1,514.52

The food costs for the February 21, 2024, reception in Nairobi were paid with State funds. On February 7, 2024, the Secretary of State used one of his office's purchasing cards to make a \$1,911.29 payment to the Trademark Hotel for the food that would be served at the reception, which included toasted sesame seeds, Greek vegetable skewers, chicken pepper fry, beef sauté, and other items.

An image of the invoice for with the Secretary of State’s purchase of food for the reception is shown below:



trademark
an intellectual property by Tribe

P.O BOX .1333, 00621 NAIROBI, KENYA
 TEL: +254 020-7200000 FAX: +254 020-7200110
 VAT No.0181411G
 PIN No.P051216196K

PROFORMA INVOICE

DATE: January 30, 2024
 INVOICE **TRB00-352**

Email: Salescoordinator@tribehotelsgroup.com
 Phone: (+254) 102367741

BILL TO: US Embassy - State of Nebraska
Email: Cindi.Allen@nebraska.gov
Contact Person Ms. Cindi Allen

DATES	DESCRIPTION	NO. OF DAYS	QUANTITY	RATE - KES	AMOUNT- KES
21st Feb 2024	Canape Menu V	1	75	3,950	296250.00
Bank	Kenya Commercial Bank			Total Amount	296250.00
Branch	Village Market			Net Amount	271,788.99
Account Name	Tribe Hotel Limited - A/C NO 2			VAT @16 %	620.69
KES Account				S/Charge @7%	19,025.23
USD \$ Account				T/Levy @2%	5,435.78
EUR € Account				BALANCE DUE	296,250.00
SWIFT Code				Amount in USD	1,911.29

Cindi Allen

In an email message to the Sales Coordinator for the Trademark Hotel, the Deputy Secretary of State acknowledged that the Foundation had wired funds for the reception’s beverages and requested that a payment link be sent to the Secretary of State’s Controller for the cost of the food.

Despite the unambiguous “NO alcohol” directive from the Corn Board, the public funds received from that State agency appear to have been expended by the Foundation to purchase alcohol for the reception. If the Corn Board’s intent was for its \$500 contribution to help pay for the reception’s food, those funds should have been remitted to the State Treasurer for credit to the Secretary of State, not to the Foundation.

Based on correspondence and other supporting documentation obtained by the APA, the Nebraska Dry Bean Commission appears to have sponsored a similar reception for the Nebraska trade mission to Dubai and Jordan in the Middle East and North Africa (MENA) region from February 8, 2022, to February 18, 2022. The APA noted a \$5,000 invoice from the Secretary of State's office to the Nebraska Dry Bean Commission, requesting that checks be made payable to the NebraskaLand Foundation. It is unclear whether State funds were used to purchase alcohol for that reception as well.

On September 17, 1993, the Nebraska Accountability and Disclosure Commission adopted a document entitled "A Guideline to the Use of Public Funds by Cities and Villages – Revised" (Guideline). Based upon the provisions of the Local Government Miscellaneous Expenditure Act (Act), which is found at Neb. Rev. Stat. §§ 13-2201 to 13-2204 (Reissue 2022), the Guideline addresses a number of different scenarios involving the expenditure of public funds. Though issued three decades ago, the Guideline remains relevant to various Nebraska public entities.

The Guideline begins by setting out the following general rules for the proper handling of public funds:

A) The manner in which government does business sometimes is, and must be, different from the way that private industry does business.

B) The government body expending public funds should always be able to articulate the statutory or other legal basis for the expenditure. "We've always done it this way" is not a legal basis.

C) A government body expending public funds should always be able to articulate the public purpose served by the expenditure.

D) Government resources are for government purposes only.

State agencies, such as the Secretary of State, are not among the numerous governmental entities made subject to the Act. Consequently, neither the restrictions therein nor the information contained in the Guideline governs their expenditures.

Nevertheless, both the Act and the Guideline offer sound directives for safeguarding public funds from waste and abuse – adherence to which would prove beneficial to the fiscal credibility of all public entities, regardless of technical legal status.

Further, the Nebraska State Accounting Manual – prior to the passage of LB381 (2020), which changed the State's travel reimbursement policy from reimbursement of actual expenses to a per diem basis – explicitly stated that alcoholic beverages were not to be reimbursed under any circumstances. Although the current policies in the State Accounting Manual no longer contain this clear prohibition against the reimbursement of alcoholic beverages, it should be self-evident that the purchase of alcohol is not an appropriate use of public funds.

Good internal control requires procedures to ensure that any expenditure of public funds is made in strict compliance with either governing administrative guidelines for the proper use of those monies or any lawful directive of the agency making such funds available.

Without such procedures, there is an increased risk for the loss or misuse of public funds.

We recommend the implementation of procedures to ensure that all expenditures of public funds are reasonable, necessary, and in accordance with governing administrative guidelines or any lawful directive of the contributing agency.

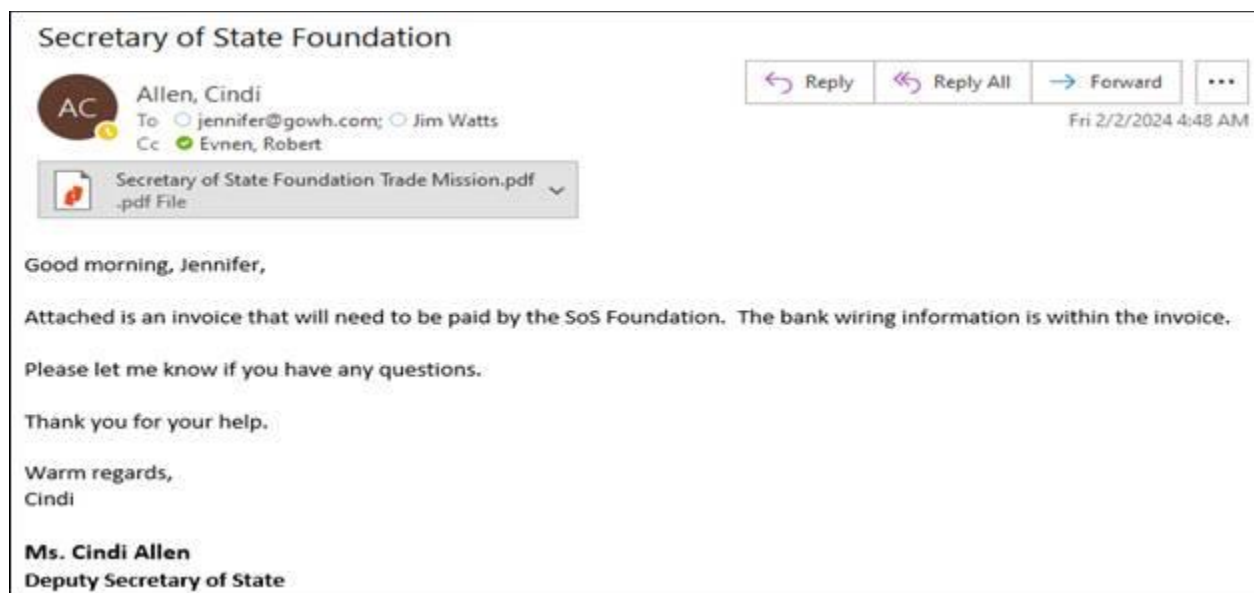
Secretary of State Response:

First, we appreciate the auditor's review and recommendations. We agree with this recommendation, and we are currently formalizing written procedures related to international trade missions to establish best practices ensuring that all public funds expended are reasonable and necessary. Regarding the \$500, it should be noted that our office does not have control over the Secretary of State Foundation, however, it is our understanding that the Foundation differentiates public and private funds to ensure that public funds are not used on expenses such as alcohol. We agree that the Corn Board's \$500 contribution was not used on food as originally intended, however, we have confirmed with the Foundation that it was not used for alcohol - private funds were available to cover the costs of alcohol.

APA Response:

We appreciate the Secretary of State's efforts to establish best practices for trade missions through the implementation of written formal procedures. However, the APA questions the notion that the Secretary of State's office lacks any control over the Foundation, as the office's staff was clearly directing what invoices were to be paid by the Foundation – including negotiating specific payment terms – according to documentation observed by the APA. Invoices were typically paid, or funds were wired, by the Foundation on the same day as requested by the Secretary of State's staff for payment.

After a series of emails with the Trademark Hotel to finalize the selection of alcohol for the Kenya trade mission reception dinner on February 21, 2024, for instance, the Deputy Secretary of State asked for separate invoices because the Foundation would be paying for the alcohol. Within a few hours after receiving that emailed request, which is shown below, the funds were wired from the Foundation's bank account as directed.




The Director of the Corn Board was clear in his message that the agency would provide \$500 toward food costs at the reception but “NO alcohol.” If not spent as specified, that \$500 should be used to reimburse the State or returned to the Corn Board.

2. Shared Resources to Support the Foundation

In addition to the questionable expenditure of public funds described in the previous comment herein, the APA noted that the Secretary of State appears to be sharing State resources with the Foundation, an independent, non-profit organization.

As noted previously herein, the Secretary of State has utilized the Foundation's bank accounts to receive and expend funds for the trade investment missions. Furthermore, invoices sent to the attendees of these trade missions directing them to make checks payable to the Foundation shared the Secretary of State's letterhead, and those invoices were sent by Secretary of State staff using their State employee email addresses during normal business hours.



Similar to the image of the Corn Board invoice on page 4 herein, the following is an image of an invoice sent from the Secretary of State's office to the University of Nebraska:

	STATE OF NEBRASKA
ROBERT B. EVNEN SECRETARY OF STATE	P.O. Box 94608 State Capitol, Suite 2300 Lincoln, NE 68509-4608 Phone: 402-471-2554 Fax: 402-471-3237 www.sos.ne.gov
February 5, 2024	
Agricultural Research Division Jared Evert, Finance & Office Manager Agricultural Research Division University of Nebraska-Lincoln Institute of Agriculture & Natural Resources jevert2@unl.edu	
INVOICE	
<u>Secretary of State Trade and Investment Mission to Kenya</u>	\$5,000.00
Please make checks payable to the Secretary of State Foundation	
Mailed to: Secretary of State Foundation Jim Watts, President Watts and Hershberger, PC 5555 South Street Lincoln, NE 68506	
Thank you.	

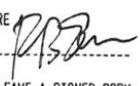
The records examined by the APA indicate that the Secretary of State and his staff appear to have played an active role in both creating the Foundation and managing its ongoing financial affairs, including directing and approving the payment of various expenses. Such activities included fundraising efforts, as well as meetings held with potential donors and trade mission participants for sponsorships paid to the Foundation's bank account.

The APA noted also that the Secretary of State's Business Services Division waived certain costs for the Foundation's filed Articles of Incorporation, as it was considered state agency business.

At least once, the Secretary of State received a direct payment from the Foundation, a check for \$3,855.16, as shown in the following image:

NE SEC OF STATE FOUNDATION 5555 SOUTH ST LINCOLN NE 68506		Date: <u>12-7-2022</u>	1004 76-702/1049
Pay to the order of: <u>Robert Evnen</u>		\$ <u>3,855.16</u>	
<u>Three thousand eight hundred fifty five & 16/100</u> Dollars.			
 CORNHUSKER BANK Lincoln, Nebraska 68501			
Memo: <u>Kuwait Amb. Dinner</u>			
⑆ 104907025⑆		⑆ 004	
DDA Debits - 12/8/2022			

Based on the corresponding check memo and other documentation, the Secretary of State's office hosted a dinner for the Kuwaiti ambassador, which was attended by approximately 21 guests, including several State and local officials, at the Mahogany Prime Steakhouse in Omaha, Nebraska. The cost of that reception, which averaged about \$183 per guest, was reimbursed by the Foundation. Images of the function's meal and alcoholic beverage receipts are shown below:

MAHOGANY OMAHA (402) 445-4380		MAHOGANY OMAHA (402) 445-4380		MAHOGANY OMAHA (402) 445-4380			
SERVER: Z-Jonathan DATE 10/24/22 CHECK # 145027 TIME 9:51PM TABLE # 145027 DEPT DINING GUESTS # 12		MAHOGANY PRIME STEAKHOUSE OMAHA 13665 CALIFORNIA ST OMAHA, NE 68154 (840)402-445-4380		MAHOGANY PRIME STEAKHOUSE OMAHA 13665 CALIFORNIA ST OMAHA, NE 68154 (840)402-445-4380			
ITEMS ORDERED AMOUNT 5 APP PLATTER -PD 0.00 1 SCALLOPS 18.00 8 CAESAR- PD 0.00 14 HOUSE- PD 0.00 2 WEDGE 24.00 1 BONE IN BISON 65.00 1 MAHOG CKN- PD 89 89.99 6 RIBEYE 14- PD 539.94 15 FILET 12-PD 1349.85 1 FILET 12 62.00 7 CORN-PD 0.00 1 SNL VEG 12.00 7 ASPARAGUS- PD 0.00 7 MASH- PD 0.00 1 BRUSSEL SPROUTS 11.00 1 ASPARAGUS 13.00 1 Chimi Churri 0.00 1 Peppercorn Sauce 0.00 9 CHZ CAKE- PD 0.00 4 CHOCOLATE- PD 0.00 8 CARROT CAKE- PD 0.00		PLEASE LEAVE A SIGNED COPY DINING 10/24/22 09:28:28 PM AUTHORIZATION LG PARTY 4 MERCHANT ID : WIKDUI6F CHECK NUMBER : 145027 TABLE NUMBER : 63 CVV AND AVS HAS APPROVED AMOUNT: \$2396.14 TIP : \$ 500.10 TOTAL : \$2896.14 TERMINAL ID : 2 APPROVAL CODE : 03553D ENTRY MODE : MANUAL CARD NUMBER : xxxxxxxxxxxx8395 CARD BRAND : VISA NAME ON CARD : SIGNATURE  PLEASE LEAVE A SIGNED COPY MERCHANT COPY		ITEMS ORDERED AMOUNT 1 SIMI Chard 80.00 5 SIMI Cab 525.00 2 SIMI RRV PN 160.00 SUBTOTAL 765.00 Rest Tax 19.13 Sales Tax 54.89 TOTAL DUE 839.02 Prime Steak, Fine Wine, Premium Service MAHOGANY PRIME STEAKHOUSE 13665 California St Omaha, NE 68154 (402) 445-4380 Mahogany Gift Certificates Available! Ask your server for details.		PLEASE LEAVE A SIGNED COPY DINING 10/24/22 09:38:55 PM AUTHORIZATION LG PARTY 4 MERCHANT ID : WIKDUI6F CHECK NUMBER : 145010 TABLE NUMBER : 62 AMOUNT: \$839.02 TIP : \$ 120.00 TOTAL : \$959.02 TERMINAL ID : 2 APPROVAL CODE : 303988 ENTRY MODE : INSERT AID : A000000031010 APPLICATION LABEL : VISA CREDIT CARD NUMBER : xxxxxxxxxxxx7265 CARD BRAND : VISA NAME ON CARD : CARDHOLDER/VISA SIGNATURE : PLEASE LEAVE A SIGNED COPY MERCHANT COPY	
SUBTOTAL 2184.78 Rest Tax 54.62 Sales Tax 156.74 TOTAL DUE 2396.14							

In July 2022, the Foundation's initial deposit of \$9,335.73 was comprised of funds transferred to it from the NebraskaLand Foundation. This amount included excess funds collected for the Dubai and Jordan trade investment mission trip in February 2022; however, it is unclear exactly how much of that amount was State funds. The APA noted five different payments from multiple State agencies, from October 2021 through December 2021, totaling \$12,200, that had been paid to the NebraskaLand Foundation on behalf of the Secretary of State for the trade mission. These five payments are summarized in the following table:

Date	Agency	Amount
10/06/2021	Nebraska Corn Board	\$2,400.00
10/06/2021	Nebraska Grain Sorghum Board	\$1,200.00
10/06/2021	Nebraska Grain Sorghum Board	\$1,200.00
10/07/2021	Nebraska Dept. of Economic Development	\$2,400.00
12/23/2021	Nebraska Dry Bean Commission	\$5,000.00
Total		\$12,200.00

Therefore, it is likely that at least a portion of the deposited amount included such public monies.

As the Nebraska Attorney General explained in Op. Att’y Gen. No. 16-005 (March 04, 2016):

Neb. Const. art. IV, § 1 establishes the executive officers of the state as the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, and other heads of executive departments, and provides that “[o]fficers in the executive department of the state shall perform such duties as may be provided by law.”

* * * *

We have stated that “the law” as referred to in Neb. Const. art. IV, § 1 refers not only to statutory law, but common law and the inherent functions of the constitutional officers. Op. Att’y Gen. No. 93012 at 6. These common law and inherent functions comprise the “core functions” of the constitutional officers.

The APA questions whether anything in either State statute or its own “core functions” expressly authorizes or even implicitly supports the Secretary of State, as a constitutional officer for the State of Nebraska, sharing public resources with a private, non-governmental entity.

Moreover, Neb. Rev. Stat. § 49-14,101.01(2) (Reissue 2021) of the Nebraska Political Accountability and Disclosure Act (Act), which is set out at Neb. Rev. Stat. § 49-1401 et seq. (Reissue 2021, Cum. Supp. 2022), restricts the use of resources under the “official care and control” of a public official or public employee, as follows:

A public official or public employee shall not use or authorize the use of personnel, resources, property, or funds under his or her official care and control other than in accordance with prescribed constitutional, statutory, and regulatory procedures or use such items, other than compensation provided by law, for personal financial gain.

Per subsection (7) of that same statute, “[A]ny person violating this section shall be guilty of a Class III misdemeanor”

In Opinion Number 148 (“Conflict of Interest”), adopted August 19, 1994, the Nebraska Accountability and Disclosure Commission (Commission) said the following about the use of State resources:

To the extent that it assists the Nutrition Division of the Nebraska Department of Health [a State agency] in carrying out its duties, the Director of the Division may make occasional use of state computers on behalf of the Lincoln Dietetic Association [a private organization]. However, the approval of the immediate supervisor or the governing body is required.

While doing so, however, the Commission offered the following cautionary exhortation:

Section 49-14,101(4) generally provides that no public official or public employee shall use personnel, resources, property, or funds under that individual’s official care and control other than in accordance with law. That is, government personnel, resources, property, and funds are for government purposes only.

* * * *

The simple fact that a state employee belongs to a private organization does not justify the use of state resources by the state employee on behalf of the organization. If the association of the state employee to the organization is primarily for the benefit of the employee and only incidentally benefits the state agency, state resources may not be

used on behalf of the private organization in any manner. Even when the association of the state employee with the private organization primarily benefits the state agency, the use of state resources on behalf of the private association must be occasional. The business of private associations should not be run out of government offices using government personnel and government resources.

(Emphasis added.) Neb. Rev. Stat. § 49-14,100 (Reissue 2021) authorizes the Commission to provide formal guidance regarding compliance with the Act, as follows:

Any person who is in doubt as to the propriety of action proposed to be taken by him may apply to the commission for an advisory opinion relating thereto, and the commission shall have authority to render such opinions. When an advisory opinion is issued pursuant to a complete and accurate request, such opinion shall be a complete defense to any charge of violation of sections 49-1493 to 49-14,104 as to any action taken strictly subject to the terms of such opinion.

Aside from concerns regarding compliance with the Act, utilization of the Foundation, a private organization that operates beyond any meaningful public oversight or control, much less widespread awareness, for such an important role in the Secretary of State's foreign trade missions appears incongruent with the spirit of open and transparent government, a vital pillar of Nebraska's core civic values.

The State of Nebraska's dedication to governmental transparency is proclaimed unambiguously in Neb. Rev. Stat. § 84-1408 (Reissue 2014) of the Open Meetings Act: "It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret." Allowing the Foundation to have a hand in not only Nebraska trade missions but also any other function of the Secretary of State's office appears to fly in the face of this declaration. As a private, nonprofit corporation that – aside from meeting basic formulative and administrative requirements – answers to no governmental body, the Foundation is equally unaccountable to the public at large; nevertheless, it participates in activities that impact State trade policy.

The managerial support that it receives from the Secretary of State's staff indicates the importance of the Foundation to that office – at least, with regard to foreign trade missions. Denoted also thereby is the evident opportunity for undue influence, which could conceivably be occasioned by sizeable donations or other considerations. Being the nation's fifth largest agricultural exporting state, Nebraska depends upon foreign trade for billions of dollars in revenue annually. Securing, if not actually expanding, such essential commerce requires clear-headed and dispassionate stewardship. Were a particularly generous benefactor permitted to exert pressure on decisions regarding the destination or conduct of a trade mission, the results could prove detrimental to the financial interests of Nebraska and its citizens. Under current circumstances, moreover, such involvement would remain largely unidentified and, therefore, beyond the immediate scrutiny and attendant appraisal of the taxpayers or their State representatives. Worse yet, a burgeoning perception of official impropriety – even in the absence of any actual wrongdoing – could eventually pose a very real threat.

Granted, the amount of funding that the Foundation has provided to the Secretary of State has been relatively small thus far, and the degree of its influence upon the trade mission process is unclear at present. What the future holds remains to be seen, though. In the interest of ensuring public accountability, therefore, the interaction between the Secretary of State's office and the Foundation, especially the potential for unethical pressure by the latter on the former and the performance of its official responsibilities, may be a worthwhile subject of legislative inquiry and, perhaps, directive – including, for example, possibly subjecting the Foundation, as well as any other similarly situated entities, to the requirements of both the Open Meetings Act and this State's public records laws.

Good business practice requires not only the segregation of State business from that of nongovernmental entities but also strict limitations upon the use of public property and/or resources by private organizations.

Without such segregation, there is an increased risk for questionable activities, including possible conflicts of interest, that could undermine the public trust or give rise to legal concerns.

We recommend the Secretary of State seek formal guidance from the Commission regarding the sharing of State property and/or resources with the Foundation. Further, we urge the Secretary of State to consult with both the Nebraska Attorney General and the leadership of the Legislative Council to safeguard against any impropriety, whether actual or merely perceived, arising from ongoing collaboration with the Foundation.

Secretary of State Response:

We are happy to comply with the recommendation by consulting with other government officials such as the Nebraska Accountability and Disclosure Commission (NADC), Attorney General, and Legislature regarding the Foundation. We have consulted with the NADC in the past and will continue to do so as questions arise. We have strived to ensure we are not using State resources on Foundation purposes on a more than occasional basis, but we will continue to make improvements in that regard. However, fundamentally, we do believe that the Foundation serves an important role in assisting our office in carrying out trade missions. This is the stated purpose of the Foundation, and we believe it greatly benefits the citizens of the State. We believe the reimbursement for a Kuwaiti ambassador dinner was an example of how the Foundation can assist in paying for international relations. The Secretary did not require the Foundation to pay that reimbursement, nor any other expense incurred by the Foundation. Our office may request reimbursement for certain costs, but we cannot require it. The Foundation is governed by a Board separate from the Secretary. No filing fees for the Foundation were waived. The waived cost referred to above appears to relate to a \$2 copy fee that the Secretary offered to pay but was told it was not required for state agencies to pay. Overall, we do not believe the use of State resources has been anything more than occasional, which appears to be allowable in accordance with the NADC's Opinion Number 148 as cited above; however, we will continue to ensure that only very minimal State resources are utilized in any dealings with the Foundation and seek guidance from other government officials as recommended.

3. Foundation Trade Mission Registration Fees

As mentioned in the “Background Information” section herein, registration fees are normally collected for attendees of trade investment missions conducted by the Secretary of State. For the February 2022 trade mission to Dubai and Jordan (MENA region), the registration fees were set at \$2,400 per person and listed in an e-flyer document. The Deputy Secretary of State provided this document to the Corn Board Director to consider when deciding whether to attend the trade mission. When Corn Board staff asked what expenses the registration fee covered, the Deputy Secretary of State responded as follows:

The \$2400 registration is \$800.00 per country (3 countries) in-country transportation, event tickets, organizing workshops and B2B meetings, some meals and government official receptions.

The Corn Board subsequently decided to have its Chairman attend the trade mission and paid the \$2,400 registration fee to the NebraskaLand Foundation. While the Corn Board was charged this registration fee for the February 2022 MENA region trade mission, the Secretary of State did not charge the Corn Board a registration fee for the February 2024 trade mission to Kenya. Nevertheless, two members, Jay Reiners and Brandon Hunnicutt, attended this trade mission on behalf of the Corn Board.

For this same Kenya trade mission, the University of Nebraska (University) had four staff members listed as attendees. Unlike the two Corn Board members, however, the University paid a total of \$5,000 to the Foundation for registration fees for these staff members, as shown in the following table:

Date	Amount	Deposit Slip Description	Payor	Check #	Check Date
4/26/2024	\$5,000.00	UNL	State of Nebraska	26003152	4/15/2024

The APA was unable to determine the purpose of these registration fees, as the Foundation's bank account does not appear to have made any related purchases with this money. Instead, the Secretary of State paid nearly all of the Kenya trade mission expenses, which were later reimbursed from a USDA Foreign Agricultural Service Emerging Markets Program grant, leaving minimal costs to be covered by the Foundation.

As explained in **Comment and Recommendation Number 1** (“Questionable Use of State Funds”) herein, a payment was made to the Trademark Hotel in Nairobi, Kenya, from the Foundation’s bank account for the cost of alcohol and other beverages at a reception dinner held on February 21, 2024. The only other expenses paid from the Foundation’s bank account for the Kenya trade mission were two payments, totaling \$4,793, to cover half of the cost of an individual providing executive assistant services for the Secretary of State while in Kenya and round-trip flight tickets for 16 trade mission attendees from Nairobi to Mombasa.

It is unclear why the University was required to pay a registration fee for its staff members to participate in the Kenya trade investment mission, but no such registration was required from the Corn Board. There appears to be a considerable lack of consistency with the trade mission registration fees – specifically, in terms of the varying amounts charged for not only the different excursions but also the separate groups of attendees. The registration fees collected do not appear, moreover, to have been used to cover the transportation and other trade mission-related costs of the individuals for whom they were paid.

In fact, one private sector attendee of the February 2024 Kenya trade mission, who was originally informed that his registration fee would be \$1,800, questioned the Deputy Secretary of State regarding the expenses that the fee covered. That attendee assumed that the fee would be for the cost of participating in the trade mission from start to finish; however, he planned to have only limited participation in the trade mission. After conferring with the Secretary of State and having a subsequent telephone conversation with the attendee, the Deputy Secretary of State offered to reduce that participant’s registration fee. The attendee’s company ultimately paid a registration fee of \$750, which was deposited into the Foundation’s account on June 3, 2024.

Good internal control requires procedures to ensure that registration and any other fees charged to participants of the Secretary of State’s trade investment missions are both reasonable and necessary based on the actual costs incurred for those attendees.

Without such procedures, there is an increased risk for the collection of superfluous fees.

We recommend the implementation of procedures to ensure that registration fees charged to future trade mission participants are both reasonable and necessary based on the actual costs incurred for those attendees.

Secretary of State Response:

It is very difficult to know what the actual costs of the trade mission will be when establishing registration fees months in advance. These fees were established based on historical comparable fees for similar trade missions and prorated for participants that did not attend all days. The Corn Board participants were not charged a registration fee as this trade mission was supported by Emerging Market Program (EMP) grant funds from the USDA specifically related to training Kenyans on best practices for importing corn. The grant, as written, budgeted, and approved, was intended to cover the cost of the Corn Board participants who attended as experts in corn. The Dubai UAE trade mission did not have a grant, so the Corn Board attendees were charged for that trade mission. The Kenya EMP grant was for more than just the trade mission to Kenya, so expenses related to the grant activities continue to be incurred and we do anticipate that the registration fees collected will be fully expended. While we don’t know that we will ever be able to precisely set registration fees based on actual costs, we agree that we can make improvements in better documenting and establishing the basis for such fees to ensure they are reasonable and necessary and not excessive for the attendees. We will also research whether these fees should be paid to the Foundation or the State and may consider reduced fees for State agencies vs. private sector participants.

4. Questionable Expenses

During the examination, the APA noted the following questionable expenses relating to the February 2024 Kenya trade investment mission.

Unstructured Time – Vehicle Costs

According to the Kenya trade mission’s itinerary, the delegation was split into two different groups – Group 1 and Group 2. On February 16, 2024, Group 2 departed for Nairobi, Kenya’s, Wilson Airport at 12:30 p.m., and then took a flight at 2:00 p.m. to Maasai Mara, Kenya, for a three-day personal safari. Group 1 consisted of five individuals who did not participate in the personal safari. The safari participants in Group 2 included both the Secretary of State and the Deputy Secretary of State. While State funds were not expended on the safari itself, the APA identified certain questionable expenses paid with public monies during the days on which the personal safari was held.

For this trade mission, the Secretary of State rented vehicles from Bontrek African Safaris Ltd. to provide transportation services. The table below lists the number and costs for the vehicles rented on February 16, 2024, through February 18, 2024 – during the time when Group 2 went on the personal safari:

Date	Location	Vehicle Used	# of Vehicles	Rate	Amount
2/16/2024	Nairobi	Toyota Prado	6	\$150.00	\$900.00
2/17/2024	Nairobi	Toyota Prado	2	\$150.00	\$300.00
2/18/2024	Nairobi	Toyota Prado	6	\$150.00	\$900.00
Total					\$2,100.00

The Secretary of State provided the APA with the invoice for the vehicle rentals, which contains a handwritten note explaining that fewer vehicles were rented on February 17, 2024, because “most people were on personal safari & only 2 vehicles needed for those not on safari.” However, the itinerary for February 17th and 18th listed only “unstructured time,” with no other scheduled events or meetings, as shown in the following excerpt:

SATURDAY, FEBRUARY 17	
3:00 p.m.	Unstructured time, Nairobi National Park
	Unstructured time, Maasai Mara
SUNDAY, FEBRUARY 18	
3:00 p.m.	Unstructured time
	(Group 2) Depart for Nairobi
*Meeting in the evening with DP, H.E Rigathi Gachagua	

While only two vehicles were rented on February 17th, six vehicles were rented on the following day. The APA questions the necessity of renting six vehicles on February 16th and the 18th if “most people” attending the trade mission were participating in the personal safari on those days.

Unstructured Time – Lodging Costs

In addition to the transportation services, the Secretary of State procured lodging at the Trademark Hotel in Nairobi, Kenya. The following table provides a summary of the lodging costs incurred for the trade mission:

Individual	Check-In Date	Check-Out Date	Total # of Days	Daily Rate	Amount
Secretary of State	2/13/2024	2/22/2024	9	\$250.00	\$2,250.00
Deputy Secretary of State	2/13/2024	2/22/2024	9	\$250.00	\$2,250.00
Corn Board Member	2/13/2024	2/22/2024	9	\$250.00	\$2,250.00
Corn Board Member	2/13/2024	2/22/2024	9	\$250.00	\$2,250.00
Kenya Trade Mission Consultant	2/9/2024 Note	2/24/2024	15	\$250.00	\$3,750.00
Total					\$12,750.00

Note: The actual check-in date for the Consultant was February 10, 2024. The Secretary of State received a \$250 refund on March 4, 2024, for the adjusted check-in date.

As explained above, “most” of the trade mission delegation – including the Secretary of State, Deputy Secretary of State, the two Corn Board members, and the Consultant – participated in the personal safari in Maasai Mara, Kenya, from February 16, 2024, through February 18, 2024. However, the Secretary of State still incurred a total of \$2,500 in lodging costs (five rooms for two days at \$250 per day) for these unoccupied rooms.

The Deputy Secretary of State provided the following explanation for why it was necessary to pay for the rooms at the Trademark Hotel in Nairobi when the occupants were actually in Maasai Mara on the personal safari:

The hotel was not able to hold our rooms at the same rate or guarantee since checking out and checking in would take us out [of] our room [block]. We departed late Friday [February 16, 2024] because of meetings held on Friday after checkout time. On the return we were also flying to Mombasa from Nairobi at 4:30 am the next day. As a group we needed our rooms to prepare before the time to check-in.

Both the transportation and lodging costs were reimbursed by the USDA Foreign Agricultural Service Emerging Markets Program (EMP) grant. Nevertheless, the APA questions whether it was reasonable or necessary to incur lodging costs of \$2,500 for rooms that the Secretary of State knew would be unoccupied on the days of the personal safari in Maasai Mara.

Good internal control requires procedures to ensure that expenses incurred by the Secretary of State for trade missions are reasonable and necessary.

Consulting Services

On January 30, 2024, the Secretary of State entered into an agreement (State Contract # 107500 O4) with Laban Njuguna (Consultant), owner of a company called Sycamore Investments, to provide consulting services for the trade mission.

The following table provides a summary of all payments made to the Consultant for the Kenya trade mission:

Cost Description	Agreement Term	Rate	Amount
Consulting Services	1/19/2024 – 10/31/2024	16 Days @ \$500 per day	\$8,000.00
Travel Expenses		574 Miles @ \$0.67 per mile	\$384.58
Total			\$8,384.58

The first invoice submitted by the Consultant was dated February 23, 2024, for a total of \$8,384.58. However, the invoice includes six days, totaling \$3,000, for which consulting services were provided and billed before the agreement was executed on January 30, 2024.

The APA noted that a State service contract award document for this agreement, dated February 23, 2024, designated the contract service period as running from January 19, 2024, through October 31, 2024 – the same period as the term stated in the agreement. Nevertheless, this document appears to have been created only after the Consultant provided the Secretary of State with an invoice, not immediately after the agreement was executed.

Furthermore, as mentioned already, the agreement itself was executed on January 30, 2024. With an effective period of January 19, 2024, through October 31, 2024, the Secretary of State appears to have backdated the agreement to capture services provided by the Consultant prior to the agreement being signed by both parties. To the APA’s knowledge, backdating an agreement is not necessarily prohibited by law. Regardless, there are certain risks in doing so, including potential liability issues that may occur due to discrepancies between the signing date and the effective date.

Good internal control requires procedures to ensure that agreements entered into by the Secretary of State for goods or services are executed prior to actual performance under those contracts.

Unreasonable Flight Costs

For the February 2024 Kenya trade investment mission, the Secretary of State utilized a travel agency, Kitty Hawk Travel Inc., to book flights to and from Kenya. The flight costs were to be covered by the USDA EMP grant.

The table below provides a summary of the flight costs incurred for the Kenya trade mission:

Flight Cost Description	Airfare Class	Departure Date	Return Date	Amount
Secretary of State Flight Ticket	First/Business	2/12/2024	2/22/2024	\$6,391.30
Deputy Secretary of State Flight Ticket	First/Business	2/12/2024	2/22/2024	\$6,391.30
Corn Board Member Flight Ticket	First/Business	2/12/2024	2/22/2024	\$6,391.30
Corn Board Member Flight Ticket	First/Business	2/12/2024	2/22/2024	\$6,391.30
Travel Agency Service Fee				\$700.00
Kenya Trade Mission Consultant Flight Ticket	First/Business	2/8/2024	2/27/2024	\$8,791.30
Travel Agency Service Fee				\$175.00
Total				\$35,231.50

Note: All of the flight costs listed above – except for the two travel agency service fee charges – were reimbursed through the USDA’s EMP grant for the Kenya trade mission.

The USDA Foreign Agricultural Service’s website (<https://fas.usda.gov/programs/emerging-markets-program-emp>) describes EMP as follows:

The Emerging Markets Program (EMP) helps U.S. organizations promote exports of U.S. agricultural products to countries that have -- or are developing -- market-oriented economies and that have the potential to be viable commercial markets.

EMP’s reimbursement regulations, included in 7 CFR § 1486.403(b)(4)(ii) (January 1, 2024), “Reimbursement rules,” states the following regarding air travel:

Air travel must comply with the Fly America Act (49 U.S.C. App. 1517) and is limited to the full-fare economy class rate[.]

The travel agency quoted the airfares for business, coach, and economy (Y) classes in a January 9, 2024, email message to the Secretary of State just over a month before the flights were scheduled. The relevant portion of that message is copied below:

-We can have 5 or 6 business class on the outbound flights you requested via DFW, coming back only 2 seats left for the 5:45pm flights out of NBO, but we can have 5-6 seats on the later flight 1am via ORD (the next early morning & arrive same day 23 Feb. to OMA) as attached
 - The air fare (as of today):
 1-Business class AA/QR \$6391.30 (5-6 seats available)
 2-Coach class \$2470.30 (4-5 seats available)
 3-Y class \$6476.30

 1 & 2 fares based on the form of payment check or 4% extra with credit card

 Please let me know as the availabilities are getting slimmer each day (because we don't have enough number to sign a contract with the 2 carriers)

 Have a great day

As shown above, the economy (Y) class fare is quoted at \$4,006 more than coach class, and \$85 more than the business class fare. The APA inquired with the travel agency why the economy (Y) class fare would have been quoted higher than the business class fare. According to the travel agency, the economy (Y) class fare is typically the most expensive economy air fare because it is unrestricted and allows for the most flexibility. Airlines will typically have multiple different classes of both business and economy air fares. Therefore, it is possible to have situations where business class air fare with more restrictions will be less expensive than the economy (Y) class fare on certain flights.

American Airlines offers 11 other economy class fares (Y, H, K, L, M, V, G, S, N, Q, and O) beyond the basic economy (Main Cabin Coach). Travelers have the option to purchase economy tickets with a reasonable fee that would allow them to receive a full refund to the original form of payment. The APA consulted with a local travel agency, utilized by several State agencies, who questioned the comparison between a Y class ticket and business class, as generally no one would purchase a Y class ticket because it is the most expensive economy class option.

Ultimately, the Secretary of State purchased the business class flights, which were \$85 cheaper than the economy (Y) class fare. However, it does not appear reasonable that the Secretary of State purchased the business class tickets when other, less costly refundable economy class tickets would have been available and when such business class tickets would not have been reimbursed had the costs been covered with State funds, as the State only allows for “coach” or basic economy class tickets to be reimbursed.

The business class tickets for the four State officials cost a total of \$25,565.20; however, the total cost of the flights had the Secretary of State purchased the “coach class” tickets would have been only \$9,881.20 (\$2,470.30 x 4) per the air fares quoted by the travel agency. Therefore, the Secretary of State could have saved a total of \$15,684 by purchasing the “coach class” tickets instead of the business class tickets. It is unclear what the exact amount quoted was for the “coach class” ticket for the Consultant. Nevertheless, it is most likely that the business class ticket of \$8,791.30 purchased for the Consultant was also thousands of dollars more than the “coach class” ticket.

The APA utilized the travel company Expedia’s website (www.expedia.com) to obtain comparable air fare rates for the same destinations used by the Secretary of State for the Kenya trade mission. Although our air fare rates would not be exactly the same because we obtained them subsequent to when the flights were actually purchased, we looked at flight data from over a month in advance (as of September 4, 2024) of a scheduled flight and for the same trip length, similar to the situation noted above, to obtain the most accurate data possible.

The following is an image of the search results from Expedia’s website, which shows an abundance of economy class flights for under \$2,000:

The screenshot displays the Expedia flight search interface. At the top, the search criteria are set to a roundtrip for 4 travelers in Economy class, flying from Omaha, NE (OMA-Eppley Field) to Nairobi (NBO-Jomo Kenyatta Intl.) with a departure on Oct 7 and a return on Oct 17. A 'Search' button is visible. Below the search bar, there's a 'Price Tracking' section with a toggle for watching prices. The main results area shows a calendar of prices for the departure date, with Monday, Oct 7, highlighted at \$1,384. Below this, there's a 'Filter by' section with options for stops (2+ Stops, 96), airlines (Delta, American Airlines, United, Air France, Lufthansa, British Airways, Qatar Airways), and travel and baggage options (Seat choice included, Carry-on bag included). The flight results are sorted by price (lowest to highest). The first result is a Delta flight (Delta 3666 operated by Skywest DBA Delta Connection, Delta 9585 operated by KLM) with a price of \$1,384. The second result is a Delta flight (Delta 4007 operated by Skywest DBA Delta Connection, Delta 8208 operated by Air France) with a price of \$1,389. The third result is a Delta flight (Delta 5444 operated by Endeavor Air DBA Delta Connection, Delta 8208 operated by Air France) with a price of \$1,389. Each result shows the flight times, duration, and number of stops.

Using the same search criteria, we also obtained air fare rates for business class flights, which, as shown in the image below, start at over \$5,000:

Roundtrip ▾ 4 travelers ▾ Business class ▾

Flying from

Omaha, NE (OMA-Eppley Field)

Flying to

Nairobi (NBO-Jomo Kenyatta Intl.)

Departing

Oct 7

Returning

Oct 17

Search

Price Tracking

Watch prices

Get email notifications if prices go up or down

Choose departing flight

Choose returning flight

Review your trip

Prices may change based on availability and are not final until you complete your purchase. You can review any additional fees before checkout.

Sort by

Price (lowest to highest) ▾

Flights contain mixed seat/cabin classes

Earn OneKeyCash on top of airline miles when you sign in and book a flight

Sign in

Filter by

Stops

2+ Stops (96)

Airlines

Delta (54)

American Airlines (22)

United (13)

British Airways (11)

Lufthansa (6)

Iberia (4)

Ethiopian Airlines (2)

Show more

Travel and baggage

Seat choice included

Carry-on bag included

From

Omaha (OMA) - Nairobi (NBO)

Delta • Delta 5444 operated by Endeavor Air DBA Delta Connection, Delta 9585 operated by KLM

12:58pm - 9:55pm⁺¹

24h 57m (2 stops)

Omaha (OMA) • Nairobi (NBO)

3h 10m in Minneapolis (MSP) • 3h 50m in Amsterdam (AMS)

4 left at \$5,192

Roundtrip per traveller

No change fee • Seat choice included

10:56am - 9:55pm⁺¹

26h 59m (2 stops)

Omaha (OMA) • Nairobi (NBO)

5h 12m in Minneapolis (MSP) • 3h 50m in Amsterdam (AMS)

4 left at \$5,192

Roundtrip per traveller

No change fee • Seat choice included

10:23am - 9:55pm⁺¹

27h 32m (2 stops)

Omaha (OMA) • Nairobi (NBO)

3h 29m in Detroit (DTW) • 6h 15m in Amsterdam (AMS)

4 left at \$5,192

Roundtrip per traveller

No change fee • Seat choice included

Again, it is important to note that, while these prices likely differ somewhat from those available at the time the Secretary of State received quotes for flights to Kenya in January 2024, the above information still illustrates the difference in price levels between the economy and business class flights. It should be noted also that the cost of the tickets (excluding the Travel Agency service fees) was reimbursed by the USDA EMP grant.

Good internal control requires procedures to ensure that the cost of all Secretary of State expenses, including flights, are reasonable when compared to other prices for similar goods or services.

Without such procedures, there is an increased risk for loss or misuse of public funds.

We recommend implementing procedures to ensure that: 1) expenses incurred by the Secretary of State for trade missions are reasonable and necessary; 2) agreements entered into by the Secretary of State for goods or services are executed prior to actual performance under those contracts; and 3) the cost of all Secretary of State expenses, including consulting services and flights, are reasonable compared to other prices for similar goods or services.

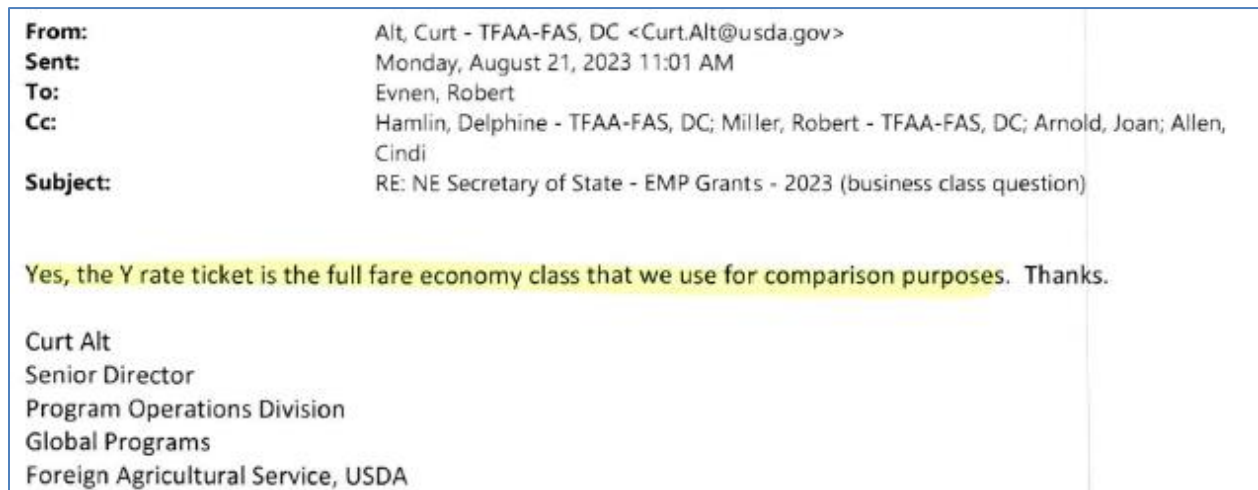
Secretary of State Response:

Overall, we reiterate that we are in the process of implementing written formal procedures related to trade missions to better establish best practices. As part of that process, we are contracting with the University's travel vendor for airfare to ensure we are getting the best prices on airfare for international group travel, which is complex to book. We would also like to note that all these costs were allowable grant expenditures per the USDA and have been reimbursed with federal grant money. None of this was an expenditure of state funds. A more specific response to each questioned cost is outlined below.

- **Transportation Costs during “Unstructured Time”:** *Three quotes for transportation services were obtained for the Kenyan transportation services, which was not an easy task to complete in a foreign country. This vendor was the lowest quote; however, partial day discounts were not offered by any of the three companies quoted, so the full day fee was required for the meetings and airport transportation needed. There were transportation needs for the full group on both 2/16/24 and 2/18/24 per the agenda provided.*

and the number of vehicles needed on 2/17/24 was reduced for only Group 1 participants who did not attend the safari. The agenda was planned in advance knowing that some “unstructured time” should be reserved for new connections and individualized meetings for the participants. In the future, we will better document what those individualized meetings are, however, we disagree that these costs were questionable.

- **Lodging Costs during “Unstructured Time”:** *As noted in the response by the Deputy Secretary quoted above, it was not logistically feasible to check out and back in. The hotel was not able to provide any assurance that rooms would be available if the participants checked out, nor were they willing to provide a room block broken up into two parts. Additionally, it likely would not have saved \$2,500. The group did not depart on 2/16/2024 until long after the morning checkout time so that daily fee of \$1,250 for the group would have been required to be paid regardless.*
- **Consulting Services:** *We agree that it is best practice to execute agreements before the services begin. Unfortunately, in this instance, due the quick timeframe between receiving the grant and departing on the trade mission, we were not able to get the contract executed before services began. As the APA noted, there is nothing illegal about that, but it does pose some risk - primarily to the party performing the service rather than the State. In accordance with best practice, we will endeavor in the future to ensure that all agreements are executed before services begin.*
- **Unreasonable Flight Costs:** *Our office contacted the USDA, which is the federal grant awarding agency, in advance and confirmed that we should be using the Y fare (or full-fare economy rate) for airfare comparison purposes to ensure that this would be an allowable grant expense and that no State funds would be used for business class airfare. See email below.*



It is not reasonable to book complex international group airfare through an online booking service such as Expedia. The complications that arise during international travel require the use of a knowledgeable and experienced travel agent. This has been the only instance in which public funds were used for business class airfare and it was only done with explicit written approval to do so from the federal grant awarding agency because the comparable Y fare rates were higher. For all other trade missions conducted by this office, state funds were only used for economy airfare rates. Any upgrade costs were born personally by the those who were flying. The federal government has a different policy, which we followed in this instance. We note that Nebraska funds were not used for this reimbursement and that federal funds were used in accordance with federal rules.

APA Response:

Again, we appreciate the Secretary of State’s efforts to establish best practices for trade missions through the implementation of written formal procedures. As pointed out in the letter, we are aware that the expenses discussed were reimbursed with EMP grant funds from the USDA. Nevertheless, we still question whether such expenses were a reasonable and prudent use of taxpayer funds.

With respect to the empty hotel rooms paid with taxpayer dollars, the APA was not made aware of any documentation showing that the room occupants could not have checked out of their rooms when not needed due to personal travel elsewhere and then checked back into their rooms when needed for trade mission business.

Federal regulations do allow for the reimbursement of expenses up to the “full-fare economy class rate” for airfare. The Y class fare is not the only airfare class, however, with flexibility for refunds or flight changes, but – as the travel agency used by the Secretary of State explained to us – it is typically the most expensive economy class fare. There would have been other economy airfare classes offering similar flexibility options at significantly lower costs than the Y class fare and the business class fare that the Secretary of State purchased. As stated in the Secretary of State’s response, the Kenya trade mission has been the only one in which business class airfare was procured because it was allowable under the Federal regulations. Even if eligible for reimbursement under the Federal grant, business class airfare was not necessarily a reasonable expenditure of taxpayer funds – especially when other similar, but more economical, options would have been available thus saving taxpayers many thousands of dollars. The travel agency hand-picked by the Office of the Secretary of State clearly offered airline tickets at considerably lower cost than the tickets ultimately selected.

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Our audit procedures are designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our objective is, however, to use the knowledge gained during our work to make comments and recommendations that we hope will be useful to the Secretary of State.

Draft copies of this letter were furnished to the Secretary of State to provide him and his office’s management with an opportunity to review and to respond to the comments and recommendations contained herein. Any formal response received has been incorporated into this letter. Such response has been objectively evaluated and recognized, as appropriate, in the letter. A response that indicates corrective action has been taken was not verified at this time.

This communication is intended solely for the information and use of the Secretary of State and his office’s management. It is not intended to be, and should not be, used by anyone other than these specified parties. However, this communication is a matter of public record, and its distribution is not limited.

If you have any questions regarding the above information, please contact our office.

Audit Staff Working on this Examination:

Craig Kubicek, CPA, CFE – Deputy Auditor

Mason Culver – Auditor-In-Charge

Destini Morales – Auditor

Caden Janak – Examiner

Kelsey Lutz – Examiner

Sincerely,



Craig Kubicek, CPA, CFE

Deputy Auditor

Auditor of Public Accounts

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OFFICE OF THE SECRETARY OF STATE
Nebraska Secretary of State Foundation Bank Account Activity
July 7, 2022, through July 31, 2024

Exhibit A

Date	Type	Payee	Memo/Description	Amount	Balance
7/7/2022			Beginning Balance		\$0.00
7/14/2022	Deposit		NebraskaLand Foundation, Inc.	\$9,335.73	\$9,335.73
8/15/2022	Check #1001	Chris Calkins	Flight reimbursement	(\$3,932.00)	\$5,403.73
8/15/2022	Check #1002	Watts & Hershberger, PC	50111	(\$1,185.00)	\$4,218.73
8/24/2022	Deposit		Chris Calkins	\$1,951.20	\$6,169.93
9/13/2022	Check #1003	Mattson Ricketts Law Firm	Inv #20121	(\$1,117.47)	\$5,052.46
11/14/2022	Deposit		St. Nicholas Foundation, Inc. & Encore Energy	\$11,000.00	\$16,052.46
12/8/2022	Check #1004	Robert Evnen	Kuwait Amb. Dinner	(\$3,855.16)	\$12,197.30
4/4/2023	Deposit		Huvepharma	\$30,000.00	\$42,197.30
6/27/2023	Check #1001	Mattson Ricketts Law Firm	39206 Inv #24032	(\$53.00)	\$42,144.30
7/12/2023	Deposit		Dignity Home Care & Nate Blum	\$5,000.00	\$47,144.30
9/13/2023	Electronic Debit	Mabat Platinum - Israel Touring Services	10060 Outgoing Wire MABAT Platinum LTD Touring Services	(\$10,000.00)	\$37,144.30
9/13/2023	Electronic Debit		International Outgoing Wire Fee 10060	(\$60.00)	\$37,084.30
9/18/2023	Deposit		Vanguard	\$10,000.00	\$47,084.30
12/11/2023	Check #1005	Nate Blum	Trade Mission Refund	(\$2,500.00)	\$44,584.30
1/26/2024	Deposit		Brooke Bruce	\$1,800.00	\$46,384.30
2/2/2024	Electronic Debit	Trademark Hotel	10737 Outgoing Wire Tribe Hotel Limited - A/C No 2	(\$1,514.52)	\$44,869.78
2/2/2024	Electronic Debit		International Outgoing Wire Fee 10737	(\$60.00)	\$44,809.78
2/6/2024	Deposit		Grand Island Express & Get After It International	\$2,400.00	\$47,209.78
2/12/2024	Deposit		Renewable Fuels Nebraska	\$1,000.00	\$48,209.78
2/14/2024	Electronic Debit	Anne Wamai	10782 Outgoing Wire Anne Waitherero Wamai	(\$750.00)	\$47,459.78
2/14/2024	Electronic Debit		International Outgoing Wire Fee 10782	(\$60.00)	\$47,399.78
2/15/2024	Electronic Debit	Ramani Travel Solution LTD	10793 Outgoing Wire Ramani Travel Solution LTD	(\$4,043.00)	\$43,356.78
2/15/2024	Electronic Debit		International Outgoing Wire Fee 10793	(\$60.00)	\$43,296.78
2/20/2024	Deposit		Burlington Capital	\$1,800.00	\$45,096.78
3/15/2024	Deposit		Nebraska Corn Board	\$500.00	\$45,596.78
4/26/2024	Deposit		University of Nebraska - Lincoln	\$5,000.00	\$50,596.78
6/3/2024	Deposit		Bayer AG PAYMENTS XXXXXX9434	\$750.00	\$51,346.78
6/10/2024	Check #1004	The Governor's Residence	To go Delegation Lunch	(\$467.50)	\$50,879.28
6/10/2024	Check #1006	The Governor's Residence	Kenya Delegation Dinner	(\$898.00)	\$49,981.28
6/14/2024	Deposit		Phillipe Bruce	\$600.00	\$50,581.28
7/8/2024	Deposit		America Bound Career Placement LLC	\$898.00	\$51,479.28