



OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

Evaluation Report Summary / March 2014

Agricultural Commodity Councils

Major Findings:

- Minnesota law allows agricultural producers to create commodity research and promotion councils. As of March 2014, Minnesota had 13 commodity councils.
- Checkoff fees (the per-unit assessments made on a commodity at the time of its first purchase) made up 90 percent or more of most councils' annual revenue. Annual revenue in 2012 ranged from \$18,000 (Sunflower Council) to more than \$11 million (Corn Council).
- Each council has an elected board of producers that establishes the council's priorities and directs expenditure decisions.
- Commodity councils have established broad purposes, which justify spending money on a wide array of activities.
- Council effectiveness depends on the goals of the council, which are often not measurable.
- Information about several councils' operations and finances is not readily available.
- The Minnesota Department of Agriculture's (MDA) process for auditing council compliance is flawed, and staff have not followed up on inconsistencies or reports of noncompliance.
- We had concerns about organizational conflicts of interest on the Area I Potato and Turkey council boards.
- Minnesota statutes do not prohibit councils from using checkoff-fee revenue to influence legislation, despite a common understanding to the contrary.

Key Recommendations:

- MDA should review, update, and enforce its compliance audit process to ensure commodity councils comply with state law.
- The Legislature should amend *Minnesota Statutes* 2013, 17.57, to require agricultural commodity councils to have a Web site on which they regularly post financial, election, meeting, and contact information.
- The Legislature should determine the limits—if any—it wants to place on the use of checkoff-fee revenue, and then amend *Minnesota Statutes* 2013, 17.59, subd. 4, accordingly.
- The Legislature should consider increasing oversight of agricultural commodity councils.
- The Legislature should amend Minnesota statutes to address board vacancy and board conflict of interest concerns.

Minnesota commodity councils are subject to minimal oversight by the Minnesota Department of Agriculture (MDA).

“Checkoff fees”—paid by commodity producers—are the primary revenue source for nearly all commodity councils.

Most councils focus their efforts on commodity-related research and promotions.

Report Summary

Since 1969, Minnesota law has allowed agricultural producers to establish commodity research and promotion councils. These councils collect per-unit assessments (“checkoff fees”) from Minnesota producers of certain commodities to support research and promotion of those commodities. Commodity councils also exist nationally, coordinating research and promoting commodities through recognizable campaigns like “Got Milk?” and “The Incredible, Edible Egg.” As of March 2014, Minnesota had 13 agricultural commodity councils: Barley, Beef, Canola, Corn, Dairy, Dry Edible Bean, Area I Potato, Area II Potato, Soybean, Sunflower, Turkey, Wheat, and Cultivated Wild Rice.¹

Commodity council 2012 annual revenue ranged from \$18,000 (Sunflower Council) to more than \$11 million (Corn Council). For most of the councils, more than 90 percent of annual revenue came from checkoff fees. For five of the councils (Corn, Dry Edible Bean, Area II Potato, Sunflower, and Turkey), these fees are refundable by producer request, although only a small percentage of checkoff-fee revenue has been refunded.

The Minnesota Department of Agriculture (MDA) has oversight authority for the councils, although it receives no state funds to fulfill these responsibilities. Instead, each council is required to pay MDA for its administrative services; in recent years, this has totaled about \$100,000 annually.

Commodity councils are governed by a board of elected producers.

Producers who pay the checkoff fee elect the council board. Board size ranges from 5 elected members on the Barley, Dry Edible Bean, and Sunflower council boards to 22 on the Dairy Council board.

Councils range from having 1 part-time staff person at the Area I Potato Council, to 12 staff people and 7 on contract at the Corn Council. Several councils contract for resources. For example, the Dairy, Dry Edible Bean, Area I Potato, and Sunflower councils contract with regional or national commodity organizations for staff and for administrative, research, and programmatic services.

Minnesota commodity councils have established broad purposes, which make it difficult to measure council effectiveness.

Council purposes generally are to support promotion, research, and market development that benefit their commodity. Council activities range from investing in research about pests and diseases, to hosting booths at the Minnesota State Fair, to working to expand overseas markets. Most councils focus on commodity-related research and promotion, although the Barley Council, for one, has reported spending \$0 on research over the last four years.

We asked commodity council staff how they measure their effectiveness. Several staff said it is difficult to measure the success of their efforts; one told us the council was confident of its success because it had minimal requests for checkoff-fee refunds. Yet other staff said they measure their success by the increase in acreage, yield, or demand for their commodity, although it is not clear to what extent the councils’ efforts directly influence these outcomes.

¹ Three of these commodities, Beef, Dairy, and Soybean, are also subject to federal commodity council regulations and oversight. The two potato councils represent producers in different regions of the state.

Most producers who responded to our survey were familiar with their commodity council and generally agreed with its use of checkoff-fee revenue.

MDA does not believe it has the authority to require councils to comply with state laws.

Producers we surveyed gave generally favorable reviews of the commodity councils.

To evaluate the effectiveness of the commodity councils, we surveyed almost 3,000 Minnesota producers who pay checkoff fees. The survey recipients were selected from lists of producers provided by the councils and MDA.² Although producers may pay checkoff fees on more than one commodity, we sent each producer in our sample a questionnaire about only one council. We received responses from 42 percent (1,219) of those surveyed.

For ten of the councils, at least half of the respondents indicated that they were familiar with the council's use of checkoff-fee revenue, and a majority of these respondents said they agreed with how the council used these dollars. However, almost 30 percent of dairy producers who reported they were familiar with the Dairy Council said they do not agree with how that council uses its checkoff-fee revenue. More than one-quarter of canola producers and 38 percent of sunflower producers who indicated they were familiar with their respective councils said they were not familiar enough with how their council spends its checkoff-fee money to state an opinion.

We asked producers whether they think they have benefited from council activities. For nine of the commodity councils, a majority of respondents thought they benefited. However, a significantly smaller share of producers responding thought they benefited from the activities of the Dairy (40 percent) or Sunflower (26 percent) councils.

² The lists are incomplete, and therefore the results of our survey are not generalizable to the full producer population. But, the responses do provide insight into how some producers view the commodity councils.

MDA has provided minimal oversight of commodity councils.

MDA requires councils to complete a checklist every three years to assess compliance with state laws. We reviewed the checklists submitted by the councils from 2009 to 2012 and found errors in many of them. We also found errors in the checklist itself. When we told MDA staff about these issues, they were not aware of the errors. Staff told us they were not confident in MDA's authority to enforce the checklist and instead assumed the respective council board addressed any problems identified through their audits. We recommend MDA update and enforce its compliance checklist to ensure that councils comply with the law.

Many commodity councils do not routinely provide information to the public about their finances or operations.

Despite a law requiring the councils to prepare an annual report, three councils (Barley, Area I Potato, and Area II Potato) do not do so. Most councils that have Web sites do not post information about council finances or meetings, and three councils (Barley, Area I Potato, and Sunflower) do not have a Web site.

In their responses to our survey, several producers noted the councils' lack of transparency. For example, one turkey producer wrote, "I would like to know the council's budget, i.e., administration, salaries, etc. Have there been any grievances or complaints about the council? If so what are they?" Similarly, a wild rice producer commented, "Wild Rice Council should present annual expense operating statement to ALL GROWERS and projected budget. Not just to Board of Directors." We recommend the Legislature require commodity councils to have a Web site on which they post council financial, election, meeting, and contact information.

State law prohibits the use of checkoff-fee revenue to support a political party or candidate but not to influence legislation.

Several councils have significant financial, managerial, and operational relationships with their corresponding growers association.

Growers associations are member-based organizations that represent the interests of groups of producers. Unlike checkoff fees, association membership is voluntary. Many of the councils have close relationships with these associations. For example, the Corn Council paid more than \$4.8 million to the Minnesota Corn Growers Association in 2012 for handling council funds, accounting, general and project management, and communications. Five councils—Barley, Corn, Soybean, Turkey, and Wheat—share staff with their growers association. These close relationships can pose complications given limits on how checkoff-fee money can be used.

Council staff and others generally believe that, unlike growers association dues, checkoff-fee dollars may not be used for political purposes or to influence legislation. However, the law is not that restrictive; it prohibits the use of checkoff fees to support political parties or candidates, but not to influence legislation. We recommend the Legislature determine the limits it wants to place on the use of checkoff-fee revenue and amend Minnesota statutes accordingly.

The Area I Potato and Turkey council boards have potential conflicts of interest.

A 26-year board member on the Area I Potato Council has also served since 2009 as the President of the Northern Plains Potato Growers Association, an organization with which the council contracts for all of its programming activities and staff needs. While we did not find evidence of unethical actions, the individual's role as both a board member of the council and president of the organization that receives the largest contract from the council constitutes a conflict of interest.

The 15 board members of the Turkey Council are also members of the 18-person board for the Minnesota Turkey Growers Association, a related organization. Although both groups represent turkey growers, they are separate organizations with distinct purposes. As a result, the board members have a conflict of interest: they are expected to serve the interests of the Turkey Council and the interests of the Turkey Growers Association. These dual roles are especially noteworthy since, in 2012, the Turkey Council contracted for services from the Turkey Growers Association worth almost \$330,000, or 36 percent, of the council's total expenditures. We recommend the Legislature amend statutes to address council board conflicts of interest.

Summary of Agency Response

In a letter dated March 7, 2014, Minnesota Commissioner of Agriculture David Frederickson said, "We appreciate this external review and have already begun the process of implementing those recommendations of the report that were directed toward the Department." He said the agency "takes pride" in its administration of council elections, referenda, and the processing of refund requests and noted that "the lack of recommendations in these areas is a strong indication of our success...." The commissioner also said, "We anticipate positive improvements will result from this evaluation and the subsequent policy discussions."

The full evaluation report, *Agricultural Commodity Councils*, is available at 651-296-4708 or:
www.auditor.leg.state.mn.us/ped/2014/agcouncils.htm