



City of Anadarko Special Audit July 1, 2000 – June 30, 2005

JEFF A. McMAHAN, CFE

OKLAHOMA OFFICE
OF THE
STATE AUDITOR & INSPECTOR

Why the audit was performed

The City of Anadarko audit was performed pursuant to the District Attorney's request in accordance with 74 O.S. 2001 § 212(H) and the City Council of the City of Anadarko in accordance with 74 O.S. 2001 § 227.8

Audit Summary:

- ✓ The City has passed ordinances and resolutions that appear to conflict with the City Charter. We found no clear separation of powers and responsibilities between the City and the related Trusts. We found a lack of fiduciary oversight by the governing boards. **Pages 8 - 15.**
- ✓ Purchase orders were not properly supported. The City is not encumbering funds prior to purchases. **Pages 17, 51.**
- ✓ APWA was behind on wholesale electric payments from March 2001 to March 2005 resulting in the payment of \$339,343.99 in late fees. The City borrowed \$651,969.17 in March 2005 to repay past due balances owed by APWA. **Pages 20 - 22.**
- ✓ Payments that were approved by the APWA Board were subsequently voided. City officials entered into an agreement to repay \$472,063.32 in late payments without Board knowledge or approval. **Page 22.**
- ✓ Obligations are not being presented to the Board in a timely manner. Payments are being made without Board approval. Payments are being made, sent to vendors and presented to the bank for payment prior to Board approval. **Pages 23 & 24.**
- ✓ It appears that sales tax funds were not used in accordance with Board Resolutions. Checks were voided subsequent to Board approval, sales tax reports appeared contradictory. **Pages 27 – 29.**
- ✓ It appears that sales tax proceeds were used for a purpose other than the purpose of a sales tax vote. **Pages 29 & 30.**
- ✓ APWA provided \$601,725.00 to the hospital for which we found little or no documentation or accountability. Additional payments of \$415,275.00 were provided to the hospital from the restricted sales tax fund with little or no supporting documentation or accountability. **Page 35.**
- ✓ \$146,000.00 from a CDBG grant appears to have been improperly transferred from the City to APWA. **Pages 36 – 38.**
- ✓ The City improperly entered into a multi-year lease agreement leasing land for the golf course. **Pages 41 – 42.**



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Audit Summary *(cont'd)*

- ✓ The former Mayor's signature stamp was used on check issued after the resignation date of the former Mayor. The signature stamps of the former Mayor and former City Clerk were not filed with the Secretary of State as required by statute. **Page 44.**
- ✓ The former City Manager was paid a \$3,100.00 bonus that appears questionable. The former City Manager's contract provides for, and he was paid, a \$5,000.00 'exceptional performance bonus' with no apparent criteria defining 'exceptional'. **Pages 45 – 46.**
- ✓ We were unable to substantiate the payment of \$6,803.68 paid to the former City Manager for accrued compensatory time. **Page 48.**
- ✓ We were unable to substantiate the payment of \$7,917.07 paid to the former City Clerk for accrued compensatory time. **Page 48.**
- ✓ The City Council declared an emergency in lieu of following bidding requirements. The Council did not vote on a separate emergency clause as required by ordinance. The mayor and clerk did not sign a remodeling contract as required by City Charter. **Page 53.**
- ✓ The City and APWA contingency funds were used to purchase candy, plants, flowers, lunches, drinks, gift cards, catering and other miscellaneous expenses totaling \$6,060.95. **Pages 58 & 59.**
- ✓ The City expended \$14,600.86 on a golf course project without taking bids as required by City Charter. **Page 61.**



STATE OF OKLAHOMA OFFICE OF THE STATE AUDITOR & INSPECTOR

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CITY OF ANADARKO
ANADARKO ECONOMIC DEVELOPMENT AUTHORITY
ANADARKO PUBLIC WORKS AUTHORITY

JULY 1, 2000 THROUGH JULY 1, 2005



JEFF A. MCMAHAN, CFE
Oklahoma State Auditor & Inspector

CITY OF ANADARKO
ANADARKO ECONOMIC DEVELOPMENT AUTHORITY
ANADARKO PUBLIC WORKS AUTHORITY
SPECIAL AUDIT
JULY 1, 2000 THROUGH JUNE 30, 2005



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

May 25, 2006

Honorable Gene Christian
District Attorney, District No. 6
101 S. 11th Street
303 Courthouse
Duncan, Oklahoma 73533

Transmitted herewith is the Special Audit Report of the City of Anadarko, Anadarko Public Works Authority (APWA) and the Anadarko Economic Development Authority (AEDA). We performed our special audit in accordance with the requirements of **74 O.S. 2001, § 227.8** and **74 O.S. 2001, § 212(H)**.

The Office of the State Auditor and Inspector is committed to serve the public interest by providing independent oversight and by issuing reports that serve as a management tool to the State. Our goal is to insure a government, which is accountable to the people of the State of Oklahoma.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our Office during the course of our special audit.

Sincerely,

A handwritten signature in blue ink that reads "Jeff A. McMahan".

JEFF A. McMAHAN, CFE
State Auditor and Inspector

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ANADARKO CITY COUNCIL & APWA TRUSTEES

Mayor J.T. McCasland
(2/06 - Current)
James Hamilton
(12/04 - 2/06)
Mo Kelley
(8/04 - 9/04)
Beverly Wilhoite
(8/00 - 8/04)
Marilyn Shannon
(5/95 - 8/00)

Vice Mayor Vonda Neal
(3/06 - Current)
J.T. McCasland
(12/04 - 2/06)
Mo Kelley
(5/01 - 8/04)
Beverly Willhoite
(6/98 - 8/00)

Ward 1 Richard Botello
(12/04 - Current)
Kim Pendarvis
(7/98 - 8/00)

Ward 2 Ralph Poolaw
(6/05 - Current)
James Hamilton
(3/03 - 12/04)
Shirley Davilla
(10/96 - 3/03)

Ward 3 Darrell Wildcat
(5/06 - Current)
Vonda Neal
(8/04 - 3/06)
Katy Dawes
(4/02 - 5/04)
Melissa Abbott
(5/01 - 10/01)
Don Jarvis
(12/97 - 4/01)

Ward 4 Lino Arao
(11/04 - Current)
Greg Dakill
(9/02 - 9/04)
Katy Dawes
(5/01 - 8/02)
Ron Hobbs
(5/97 - 4/01)

Ward 5 David Sleziekey
(8/05 - Current)
Nancy Richey
(12/04 - 7/05)
John Thompson
(1/95 - 12/04)

ANADARKO ECONOMIC DEVELOPMENT AUTHORITY TRUSTEES AS OF MAY 1, 2006

Chairman Vacant

Vice Chairman J.T. McCasland

Member Vonda Neal

Member Donald Topfi

Member Vacant

Member Vacant

Member Vacant

Member Vacant

Member Vacant

ANADARKO CITY MANAGERS

Robert E. Williamson 12/04 - Present

Roy Rainey 3/04 - 12/04

Beverly Wilhoite 8/03 - 3/04

Alan Riffel 3/96 - 8/03



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

City of Anadarko
Anadarko Public Works Authority
Anadarko Economic Development Authority
P.O. Box 647
Anadarko, Oklahoma 73005

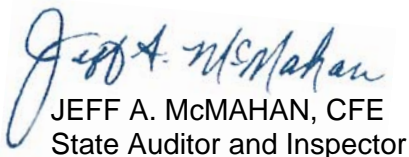
Pursuant to your request and in accordance with the requirements of **74 O.S. 2001, § 227.8**, as well as a request from the District Attorney **74 O.S. 2001, § 212(H)**, we conducted a special audit with respect to the City of Anadarko, the Anadarko Public Works Authority and the Anadarko Economic Development Authority.

The objectives of our special audit primarily included, but were not limited to, concerns expressed by the District Attorney and City Council. Our findings and recommendations are presented in the accompanying report.

Because the above procedures do not constitute an audit conducted in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the City, the APWA, and the AEDA. Further, due to the test nature and other inherent limitations of a special audit report, together with the inherent limitations of any internal control structure, there is an unavoidable risk that some material misstatements may remain undiscovered. This report relates only to the accounts and items specified above and does not extend to any financial statements of the City, the APWA, or the AEDA taken as a whole.

This report is intended solely for the information and use of the District Attorney, the Administration of the City, the APWA and the AEDA and should not be used for any other purpose. This report is also a public document pursuant to the **Oklahoma Open Records Act (51 O.S. § 24A.1 et seq.)**, and shall be open to any person for inspection and copying.

Sincerely,


JEFF A. McMAHAN, CFE
State Auditor and Inspector

April 25, 2005

Introduction:

City of Anadarko:

The municipal government provided for the City of Anadarko (City) shall be the city council-city manager form of government, as established by the Anadarko city charter (approved by the voters on August 5, 1947).

Anadarko Public Works Authority (APWA):

APWA is a public trust formed in 1958 under the authority of Oklahoma State Statutes **60 O.S. § 176, et. seq.** The City of Anadarko is the beneficiary of the APWA trust. APWA operates the Anadarko Municipal Power Service (AMPS) by purchasing wholesale electric power that is then resold to end consumers.

Anadarko Economic Development Authority (AEDA):

AEDA is a public trust formed in 1997 under the authority of Oklahoma State Statutes **60 O.S. § 176, et. seq.** The City of Anadarko is the beneficiary of the AEDA trust. The purpose of the AEDA trust is to promote, stimulate and develop the general and economic conditions of the City.

In August 2004 recall petitions were filed calling for a recall of the vice-mayor and three of the City Council members. During this process the mayor resigned.

Concern:

- **General business practices and oversight by City and APWA.**
-

Findings:

- **Ordinances appear to contradict the City Charter.**
 - **Lack of separation between the City and APWA.**
 - **Poorly maintained and unreliable financial records.**
 - **A lack of fiduciary oversight by the governing Boards.**
 - **Oversight issues compounded by adoption of the pooled cash system.**
-

Ordinances appear to contradict the City Charter.

The City of Anadarko (City) became a Charter City on June 19, 1947. The City does have a City Charter as required and it appears to have been properly adopted.

Oklahoma State Statutes 11 O.S. § 13-109:

Whenever a charter is in conflict with any law relating to municipalities in force at the time of the adoption and approval of the charter, the provisions of the charter shall prevail and shall operate as a repeal or suspension of the state law or laws to the extent of any conflict.

The City operates with both a charter and a city code. While the city charter may supersede conflicting state law **11 O.S. § 14-101** states:

The municipal governing body may enact ordinances, rules and regulations not inconsistent with the Constitution and laws of Oklahoma for any purpose mentioned in Title 11 of the Oklahoma Statutes or for carrying out their municipal functions. Municipal ordinances, rules or regulations may be repealed, altered or amended as the governing body ordains.

Section 5.10 of the City Charter reflects the following:

The city council shall appoint a city treasurer, who shall hold office at the pleasure of the city council and who shall have all the powers and duties now prescribed by law or ordinance except as in this charter provided. He shall have the custody of all moneys belonging to said city, which moneys shall be paid out only on the order of the city council. The salary of the city treasurer shall be fixed by the city council. [Emphasis added]

On April 10, 1995 and February 15, 2005 the City Council adopted Ordinances 1073 and 1168, respectively. Both ordinances include the following language:

The City Council does hereby authorize the City Manager to approve payment of any claims or invoices for payroll, supplies, materials or equipment submitted to the City for payment.

The ordinances set forth certain specific requirements for the City Manager to implement as part of an internal control structure. One of the requirements set forth in both ordinances was:

1. Proper authorization of transactions and activities.

The ordinances provide authorization for the City Manager to "approve payment" and require "proper authorization". We find this to be ambiguous in that it appears the City Manager has been "authorized" to "approve" payments while also being required to gain "proper authorization".

Ordinance 1168 contains the following wording:

All claims paid before council approval shall be brought forth on the next council meeting for information and approval.

Section 1-9-1 E. of the Anadarko City Code reflects similar wording to Ordinances 1073 and 1168, stating, in part:

The city council does hereby authorize the city manager to approve payment of any claims or invoices for payroll, supplies, materials or equipment submitted to the city for payment.

In addition 1-9-1 F.5 includes the wording from Ordinance 1168:

All claims paid before council approval shall be brought forth on the next council meeting for information and approval (Ord. 1168, 2-15-2005, eff. 2-15-2005)

We interviewed city officials in order to determine how city obligations are paid. Based on those interviews, and on Ordinances 1097 and 1168 and Section 1-9-1 F.5 it appears that the City Manager was approving claims that were paid *prior* to approval of the City Council.

This process, authorized by Ordinances and City Code appears to contradict the City Charter which states, in part:

He [City Treasurer] shall have the custody of all moneys belonging to said city, which moneys shall be paid out only on the order of the city council.

Oklahoma State Statutes **62 O.S. § 2-310.1 C** states:

As an alternative to the provisions of subsection B of this section, the governing body may elect to pay claims and invoices pursuant to the provisions of Subsection A of Section 17-102 of Title 11 of the Oklahoma Statutes, which provides for the adoption of an ordinance to ensure adequate internal controls against unauthorized or illegal payments of invoices. The governing body may also authorize the chief executive officer or designee to approve payment of such invoices. In absence of such authority, the governing board shall approve payment.

Oklahoma State Statutes **11 § 17-102 A** states, in relevant part:

Any invoice against a municipality must be presented in writing and examined in the manner provided by municipal ordinance or in the absence of such ordinance by other applicable law. The municipal ordinance shall establish an internal control structure adequate to provide reasonable assurance against unauthorized or illegal payments of invoices.

Lack of separation between the City and APWA.

The Anadarko Public Works Authority (APWA) was created under Title 60 of the Oklahoma State Statutes. The Board of Trustees for APWA and the Board of Trustees for the City should operate as distinct and separate entities.

Oklahoma State Statutes **60 O.S. § 176-1 A**, states:

A. Except as provided in subsection F of this section and if the conditions set out in subsection B of this section are satisfied in compliance with Section 176 et seq. of this title, a public trust duly created in accordance with the provisions of Section 176 et seq. of this title shall be presumed for all purposes of Oklahoma law to:

1. Exist for the public benefit;
2. Exist as a legal entity separate and distinct from the settlor and from the governmental entity that is its beneficiary;
3. Act on behalf and in the furtherance of a public function or functions for which it is created even though facilities financed by the public trust or in which the public trust has an ownership interest may be operated by private persons or entities pursuant to contract.

Oklahoma State Statutes **60 O.S. § 176-1 D**, states, in relevant part:

Except where the provisions of the trust indenture or of Section 176 et seq. of this title, or of any other law written specifically to govern the affairs of public trusts, expressly requires otherwise, the affairs of the public trust shall be separate and independent from the affairs of the beneficiary in all matters or activities authorized by the written instrument creating such public trust including, but not limited to, the public trust's budget, expenditures, revenues and general operation and management of its facilities or functions; provided, that either the public trust or the beneficiary may make payment of money to the other unless prohibited by the written instrument creating such public trust or by existing state law.

Ordinances 1073 and 1168 state, in part:

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ANADARKO / ANADARKO
PUBLIC WORKS AUTHORITY**

As previously noted **60 O.S. § 176.1 A** states, in part:

...[A] public trust duly created in accordance with the provisions of Section 176 et seq. of this title shall be presumed for all purposes of Oklahoma law to:

2. Exist as a legal entity separate and distinct from the settlor and from the governmental entity that is its beneficiary;

Ordinances 1073 and 1168 contain the following language, in relevant part:

The City Council does hereby authorize the City Manager or City Clerk to approve payment of any claims or invoices for payroll, supplies, materials or equipment submitted to the City for payment.

In an interview with the current Finance Director she stated that the previous City Manager was approving payments for both the City and APWA prior to approval of the governing boards. She stated, during this interview, that the authority for this came from Ordinance 1073.

Neither Ordinance 1073, nor subsequent Ordinance 1168, appears to grant that authority to the City Manager with regards to APWA as neither Ordinance 1073 or 1168 reflect a signature representing the APWA Board. Furthermore, Title 60 § 176.1 A states that the Trusts shall be presumed to "exist as a legal entity separate and distinct" from the Beneficiary.

In addition we noted the following from the Anadarko City Code.

8-1-1:

B. Services Operated Through Public Works Authority: Electric, water, sewer and solid waste services are operated through the Anadarko public works authority, a municipal trust of which the city is a beneficiary. Said trust shall have control over the operation, maintenance and administration of said systems and services.

8-1-3:

A. Responsibility of Public Works Authority: The operations of the municipal electric, solid waste, water and sewer systems shall be the responsibility of the Anadarko public works authority. Said authority shall have the power to establish fees, rates, deposits, charges and such other rules and regulations as may be necessary for the efficient operation of these systems.

B. Combining of Administrative Processes: Administrative processes for all systems may be combined with the municipal operation for more efficient operation, at the discretion of the city council and the Anadarko public works authority.

C. Application of Ordinances: Ordinances relating to these municipal utility systems shall be applicable, whenever possible, to all municipal utility systems, including those operated by the Anadarko public works authority. (1988 Code § 16-3)

8-5-1:

A. City Manager:

1. The electric power and distribution plant of the Anadarko public works authority shall be under the control of the city manager, who shall be governed by the rules and regulations set forth herein, and he shall have the authority to approve and disapprove all accounts for expenditures in this department. No accounts or claims shall be paid until approved by the city manager and allowed by the mayor and city council. The city

manager, with the approval of the council, shall provide regulations for and fix all rates to be charged customers, which shall include fees for extra services relating to nonpayment of bills, disconnect and reconnect service, request for abnormal services, returned checks, and any other nonroutine services.

2. Meters shall be read by the city manager or persons designated by him, and all readings shall be turned over to the city clerk.

It appears, based on the language of Anadarko city code 8-1-1 that the Anadarko public works authority has control over issues relating to electricity including control over the "operation, maintenance and administration".

The language found in 8-1-3 A appears to give the authority the power to "establish fees, rates, deposits, charges and such other rules and regulations". The language in 8-1-3 B appears to 'allow' the combining of the services of APWA and the City.

The language found in 8-5-1 asserts that the "power and distribution plant of the Anadarko Public Works Authority" shall be under the control of the city manager. The APWA trust indenture provides relatively the same wording.

However, section 8-5-1 also provides that the city manager may "approve and disapprove" expenditures and that "no accounts or claims shall be paid until approved by the city manager and allowed by the mayor and city council. This section also provides that the city manager, with the approval of the council, shall "provide regulations for and fix all rates to be charged customers [...]".

Although 8-1-1 and 8-1-3 appear to give the operation control of APWA to the authority, 8-5-1 places the city manager and the city council as the approving / disapproving vehicle for matters related to the operation and administration of the authority.

The city council has adopted ordinances reflecting the authority of both the city council and the APWA board. Moreover, the Anadarko city code appears to recognize and 'grant' authority of APWA to operate the electric utility and then remove and/or conjoin that authority with the city manager and city council.

It appears the presumption stated in Title 60 § 176.1 (A) that a trust shall be presumed to *"[E]xist as a legal entity separate and distinct from the settlor and from the government entity that is its beneficiary"* has been blurred to the point that it is difficult for us to determine who actually has authority over the electric service operations, including but not limited to, who or what board is now required to approve APWA expenditures and utility rates.

Poorly maintained financial records.

During our audit we found the financial records of the City and APWA to be unreliable, missing or insufficiently documented to determine what had actually been paid. The financial records for the City, APWA and AEDA were intermingled together in various boxes and stored in a chaotic and unsystematic method.

Moreover, we obtained computer-generated reports that were found to be unreliable. For instance, we asked for and were provided a report of the payments made to Western Farmers

Electric Cooperative (WFEC); however, we found additional payments made to WFEC that were



not included on the report. Additionally we obtained a report reflecting payments to WFEC including payments that were later voided. This report reflected two (2) payments to WFEC that had been voided. However, during our audit we discovered additional checks that were voided that are not reflected on the report.

In one instance we found that a purchase order was created and a check had been issued to WFEC, in the amount of \$329,703.61 and was later voided. We obtained a copy of the purchase order and

supporting documentation and found no indication on the purchase order or attached documents reflecting that this payment had been voided.

One of the specific concerns we were asked to address was the payments and past due amounts paid to WFEC. Because of the unreliability of the records maintained by the City we issued a subpoena to WFEC to obtain billing and payment records from the vendor in order to determine what had actually been paid.

In a letter dated July 9, 2004, from the most recent former City Manager to WFEC the former City Manager stated, "Third, the City of Anadarko has never employed an accounting system that permits it to accurately cost its services on a regular basis or match revenues to expenditures over periods shorter than an entire fiscal year". In this letter the former City Manager also states that the City is still waiting for the audit reports for the fiscal period ending June 30, 2003.

Fiduciary Responsibility.

A review of policies, resolutions and practices of the City revealed the Council has delegated, if not surrendered, its authority to provide adequate oversight and accountability to the City Manager. This power, having essentially been vested in one individual, has compromised the Council's responsibility as an oversight body.

Ordinances 1073 and 1168 both provide the apparent authorization for the City Manager or City Clerk to approve payments of claims, which are then subsequently presented to the City Council for approval. In some instances, cited later in this report, checks are sent to vendors and presented to the bank for payment prior to Council approval.

Consequently, the Council has not implemented adequate procedures and controls to assure the proper expenditure of and accounting for the funds of the City. It is the responsibility of the Council to monitor and oversee the fiscal affairs of the City and the expenditures of and to the City Manager. The virtually unlimited authority granted to the City Manager to direct the actions of administrative personnel of the City, without Council oversight, leaves the City vulnerable to potential abuse.

Oversight issues compounded by adoption of the pooled cash system.

In February 2003 the City adopted a 'pooled cash' method of handling finances. Under this system accounts from various city units and associated trusts that have been formed with the City as a beneficiary, are combined into one single account. This single account, called the "Operating Account" is then used to make payments on behalf of the separate entities.

The pooled cash account consists of the following entities:

- 01 - General Fund.
- 05 - E911.
- 07 - Municipal Court.
- 09 - Paramedic.
- 11 - Anadarko Public Works Authority (APWA).
- 15 - Anadarko Economic Development Authority (AEDA).
- 31 - Sanitary Care.
- 33 - Meter Deposit.
- 44 - AEDA second account.
- 47 - APWA Capital Improvements.
- 55 - Park Improvements.
- 62 - Sales Tax Improvements.
- 66 - WFEC Capital Projects.
- 85 - Justice Programs.

Under the pooled cash system the funds from each of the individual entities is placed in a single account. Deposits made to this account and checks issued out of this account are attributed to each respective entity in order to identify the current balances, or claims, of each entity on the total pooled cash balance.

Using the pooled cash method allows payments to be made on behalf of one entity although the funds in the pooled cash account may be insufficient for that particular entity to make the payment, essentially creating on-the-fly loans between the various City and Trust accounts.

We obtained a pooled cash report reflecting just such an occurrence. The report, dated August 7, 2003 reflects that APWA owed the pooled cash account \$145,482.26, indicating that payments had been made from pooled cash funds, on behalf of APWA, although APWA itself did not have sufficient funds in the pooled cash account.

On April 29, 2004 the APWA Board passed Resolution 04-10 stating, in part:

WHEREAS, an interfund payable exists in the Anadarko Public Works Authority Fund and an interfund receivable exists in the General Fund in the amount of \$1,013,566.00....

APWA Resolution 4-10 provides a repayment plan reflecting that APWA will repay the City general fund in "one hundred twenty (120) consecutive monthly payments of \$8,446.38 on or before the 15th day of each month, beginning July 15, 2004".

We obtained an independent audit report for fiscal year ending June 30, 2004 reflecting that the amount owed by APWA to the City general fund had increased to \$1,255,474.00. Additionally

the independent audit report also cites various City funds that owe APWA a total of \$122,447.00.

The following table, listing the interfund payables, appears in the independent audit report:

Interfund receivables and payables at June 30, 2004 were as follows:			
Receivable fund	Payable fund	Amount	Nature of interfund balance
General	Municipal court	2,340	expenses paid by General Fund for Municipal Court
General	APWA	1,255,474	expenses paid by General Fund for APWA
General	Sales tax capital improve	3,869	expenses paid by General Fund for STCIF
General	Justice program	5,930	expenses paid by General Fund for Justice Program
E911	General	5	expenses paid by E911 Fund for General Fund
Municipal court	General	636	expenses paid by Municipal Court Fund for Gen Fd
Cemetery	General	37	expenses paid by Cemetery Care Fund for General
Sales tax capital improve	General	1,384,315	expenses paid by STCIF for General Fund
Justice program	General	2,965	expenses paid by Justice Program for General Fund
APWA	Municipal court	110	expenses paid by APWA for Municipal Court Fund
APWA	Meter deposit	979	expenses paid by APWA for Meter Deposit Fund
APWA	Sales tax capital improve	120,143	expenses paid by APWA for STCIF
APWA	Meter deposit	1,215	expenses paid by APWA for Meter Deposit Fund

Based on the independent audit report cited above, it appears City general funds have been used to pay APWA obligations. **Article X Section 15A** of the **Constitution of Oklahoma** states:

A. Except as provided by this section, the credit of the State shall not be given, pledged, or loaned to any individual, company, corporation, or association, municipality, or political subdivision of the State, nor shall the State become an owner or stockholder in, nor make donation by gift, subscription to stock, by tax, or otherwise, to any company, association, or corporation.

While **Article X Section 15A** of the **Constitution of Oklahoma** does not appear to prevent a City from loaning funds to a Trust in this manner, this may allow the Trust, authorized by its Trust Indenture, to loan those borrowed funds to a private individual or corporation, essentially allowing the City, through the use of the Trust, to circumvent **Article X Section 15A** of the **Oklahoma Constitution**.

Additionally we noted that while it appears that the City general fund has been paying APWA obligations, that APWA has been paying obligations for various other City funds, including the municipal court fund, meter deposit fund and sales tax fund.

In order to balance the individual fund deficits and credit a series of "due to" and "due from" entries are created. It appears that while "due to" entries are created they are not necessarily paid in a timely manner.

In addition to funds owed to APWA as a result of these "due to" and "due from" entries, at the end of fiscal year 2002 and 2003 the general fund owed the sales tax fund \$510,624.11. By the end of fiscal year 2004 this amount increased to \$1,040,215.46. These sales tax issues are addressed later in this report.

The pooled cash method, in conjunction with the poorly documented City records, made it extremely difficult, if not impossible in some instances, to determine what funds are actually being used to pay the obligations of the various City and Trust entities involved in the pooled cash account.

Recommendations:

The City Council and the APWA Trustees should consider reviewing and possibly revising the methodology being used for approving payments. This review should include a review of the City Charter and the requirements set forth therein and the subsequent ordinances that may be in conflict with the Charter requirements.

The City and APWA should operate as separate and distinct entities as required by state statute. This should include maintaining financial records separately from the City's financial records.

The City and APWA should maintain accurate and complete financial records sufficient to allow auditors or the general public to discern what has actually been paid as well as what payments have been authorized but later voided.

We recommend the Council exercise control over the expenditure of funds and implement internal controls to ensure proper accountability over expenditures and no payments are made which violate statutory, constitutional and charter provisions.

Concern:

- Purchase orders and payments are insufficiently documented.
-

Findings:

- 48% of purchase orders tested were not properly documented.
-

We examined one hundred (100) purchase orders and payments to Western Farmers Electric Company (WFEC). We tested each purchase order for two primary elements.

- Does a vendor invoice support the purchase order?
- Does the purchase order accurately describe what is being paid?

Of the one hundred (100) purchase orders we examined, forty-six (46) failed one of the two elements we tested for. Two (2) additional purchase orders failed for other reasons reflecting a total failure rate of 48%.

We based our first element on Oklahoma State Statutes **11 § 17-102 A**, which states, in relevant part:

Any invoice against a municipality must be presented in writing and examined in the manner provided by municipal ordinance or in the absence of such ordinance by other applicable law. The municipal ordinance shall establish an internal control structure adequate to provide reasonable assurance against unauthorized or illegal payments of invoices.

Of the one hundred (100) purchase orders we tested, 16% (16 of 100) failed due to a lack of supporting invoices. In nearly each instance it appears that these payments, all to WFEC, were being made as partial monthly payments.

We based our second test element on the wording that will appear on the consent agenda for approval by the board members. The governing boards, City and APWA, approve payments

4/03/2002 2:43 PM		REGULAR DEPARTMENT PAYMENT REGISTER				PAGE: 22	
VENDOR SET: 01 ANADARKO VENDORS							
FUND : 11 APWA OPERATING							
DEPARTMENT: N/A NON-DEPARTMENTAL							
VENDOR	NAME	ITEM #	G/L	ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
=====							
01-A109	ANADARKO CLEARING ACCOU	I-024098	11	-260-02	DUE TO PAYROL PAYROLL TRANSFER	011969	27,748.62
01-C171	CELLULAR ONE	I-HMAR-156302560	11	-140-00	ADVANCE TO HO 580-550-8745	012002	43.76
01-0029	OKLA TAX COMMISSION	I-024003	11	-250-01	SALES TAX PAY SALES TAX	011931	10,614.11
		I-024003	11	-466-09	DISCOUNTS EAR DISCOUNT	011931	238.82-
01-W025	WESTERN FARMERS ELECTRI	I-8981	11	-202-50	A/P-WFEC PURCHASED POWER	011970	165,585.24
				DEPARTMENT	NON-DEPARTMENTAL	TOTAL:	203,752.91

based on a *regular department payment register*, referred to as a 'consent agenda'.

Because the Boards are approving payments based on a consent agenda rather than actually examining the purchase orders, it is

critical that the consent agenda wording accurately describe the items that are being paid and approved.

Of the one hundred purchase orders we tested, we found that 30% (30 of 100) descriptions did not accurately describe what the payments were for. In each instance the payments were being made as a result of late payment charges. However, the wording used was either "Charge Electric Power Purchases" or "Interest Electric Power Purchases".

In our test we identified nine (9) payments, totaling \$60,641.75, between April 2001 and March 2002 for late payment fees. In each instance the wording used, and reflected on the consent agendas, included either "Late Charges" or "Late Fees", clearly indicating that the charges being paid were charges associated with late payments.

Starting in May 2002 we noted that ten (10) of the late fee related payments no longer contained the word "late" in any form. The predominant wording was changed from "Late Payment" or "Late Charge" to "Charge Electric Power Purchases".

We obtained an affidavit from one of the finance employees stating that the former finance director instructed her to not use the terms "late fee" or "late charge". The former finance director instructed her to use "charge" because this "looked better for the reports for council".

In addition to the forty-six (46) purchase orders that failed based on our primary elements, we also identified two (2) purchase orders that failed for other reasons. Check #19214 was issued on February 26, 2003. We found no supporting purchase order. Second was purchase order #34627, reflecting the payment of \$205,549.27, by check #20230. We found that check #20230 was voided and was issued the following month as check #20255.

Recommendations:

Purchase orders and payments should be properly documented. This documentation should include vendor invoices describing the services or products being provided.

Purchase orders should, at minimum, include a vendor invoice supporting the payments being made. Descriptive wording used on purchase orders should accurately describe what is being paid.

City officials should not change the descriptive wording of purchase orders in order to make reports look "better" for the council.

Concern:

- Late payments, past due amounts and balances due to WFEC.
-

Findings:

- APWA was past due in monthly payments from March 2001 to March 2005.
 - APWA paid \$339,343.99 to WFEC in late payment fees.
 - The City borrowed \$651,969.17 to pay an APWA obligation.
 - The City administration entered into an informal repayment agreement.
 - Payments approved by the board were subsequently voided.
 - Payments appear to have been made without board approval.
 - Obligations are not being presented to the board in a timely manner.
 - Consent agenda items do not accurately reflect what is being paid.
-



Electric power service to the residents of Anadarko is provided by the Anadarko Municipal Power Service (AMPS). AMPS is operated through the Anadarko Public Works Authority. Wholesale electric power is purchased from Western Farmers Electric Service (WFEC) and resold to the end customers.

Between 2000 and 2005 APWA expended \$18,379,752.68 for power purchases. During the same period APWA received \$27,379,146.00 in payments from its customers, a difference of \$8,999,393.32, reflected in the following table.

	2000	2001	2002	2003	2004	2005
Collections	\$4,924,428.00	\$4,516,978.00	\$4,122,063.00	\$4,462,607.00	\$4,566,821.00	\$4,786,249.00
WFEC Billing	\$3,330,034.17	\$3,089,898.77	\$2,598,073.48	\$3,086,322.90	\$3,071,687.13	\$3,203,736.23
	\$1,594,393.83	\$1,427,079.23	\$1,523,989.52	\$1,376,284.10	\$1,495,133.87	\$1,582,512.77

On September 13, 1985 APWA entered into a contract with WFEC to purchase wholesale electrical power. In 1989 the initial contract was amended and provided for an assessment of a 17.85% fee for past due amounts. WFEC submits a statement to APWA on a monthly basis for the power purchases. A contract amendment executed in 1997 provided that each monthly payment should be made by the 28th day of each month.



While the electric service appears to be a function of APWA, and not the City of Anadarko, again we noted that APWA and the City appear to

function as one unit. Payments to WFEC for wholesale electric are supported by purchase orders with the heading "City of Anadarko". After February 2003, when the City went to a pooled cash method of finances, payments made to WFEC for wholesale power were drawn on the City of Anadarko Operating Account.

The issue of the past due amounts owed to WFEC appear to have arisen during the July 27, 2004 City Council and APWA meeting. This meeting was taped (audio). Near the conclusion of the APWA portion of the meeting the former finance director addressed the board stating:

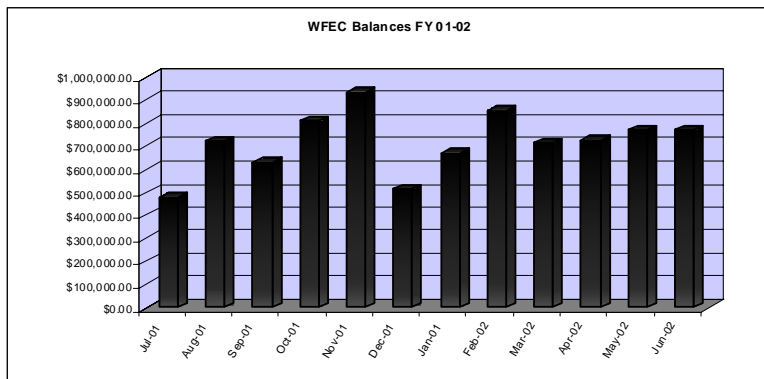
May I say something at the conclusion of this meeting? I would like to apologize to each of you up there for not being more diligent in my responsibility of reporting to you the financial information that... that was available. The decisions that I made, I attempted to... to... to make what I thought was in the best interest at the time and given those conditions that existed.

I apologize [unknown word] you all should've been more informed than what you were and I can't make excuses for that and I apologize for that and it put everyone here in an awkward position and each of you are responsible for apologizing to the public on... on those issue so I... I'm apologizing to you for... for... for the situation that put you in that position.

Based on the comments made to the APWA Board during the July 27, 2004 meeting, it appears that there has been a lack of communication between the former administration and the former APWA Board. As previously noted in this report some consent agenda items were changed in order to make the reports look "better".

APWA was past due in monthly payments from March 2001 to March 2005.

Beginning in February 2001 payments to WFEC were consistently late. During the audit period, the past due amounts, including assessed late fees, varied from \$200,000 to \$1,054,000 (attachments A, B & C).



During the five-year audit period APWA failed to pay the monthly wholesale electric payment on time in forty-five (45) of sixty (60) months. Twenty-four (24) of the monthly statements were thirty or more days past due at the time of payment.

Additionally we noted the monthly payments were made an average of fifty-two (52) days late during the entire audit period. Moreover we noted three instances in which the payment was delayed by three hundred (300) or more days.

APWA paid \$339,343.99 to WFEC in late payment fees.

Beginning in March 2001, as a result of the late payments, APWA began being assessed late payment fees in accordance with the 1989 APWA/WFEC contract amendment. Between March 2001 and June 2005 APWA paid \$339,343.99 in late payment penalties (attachment D).

In addition to the late payment penalties, the City paid \$20,087.06 in interest and fees associated with a promissory note obtained in March 2005 to pay past due amounts owed for wholesale electric power purchases.

In total APWA and the City expended \$359,431.05 in late payment related costs.

The City borrowed \$651,969.17 to pay an APWA obligation.

On March 23, 2005 the City entered into a promissory note with Anadarko Bank and Trust in the amount of \$651,969.17. The purpose of the promissory note was to pay past due amounts to WFEC for monthly electric services and late payment related fees.

We obtained a copy of a cashier's check from Anadarko Bank and Trust to WFEC, dated March 23, 2005, in the amount of \$651,969.17. From records obtained from WFEC we identified the disbursement of these funds as follows:

	Invoice	Invoice	Invoice		Invoice	Amount		Date
	Date	Number	Amount		Paid	Paid		Paid
1	03-11-2004	42733	\$ 239,695.70		42733	\$ 134,285.99		03-24-2005
2	04-09-2004	42840	\$ 230,125.12		42840	\$ 230,125.12		03-24-2005
3	05-11-2004	42920	\$ 278,733.21		42920	\$ 278,733.21		03-24-2005
4	10-08-2004	43427	\$ 259,391.97		43427	\$ 0.90		03-24-2005
5	03-01-2005	44003	\$ 8,823.95		44003	\$ 8,823.95		03-24-2005
						\$ 651,969.17		

Oklahoma State Statutes **60 O.S. § 176-1 A.2**, states in relevant part:

A. Except as provided in subsection F of this section and if the conditions set out in subsection B of this section are satisfied in compliance with Section 176 et seq. of this title, a public trust duly created in accordance with the provisions of Section 176 et seq. of this title shall be presumed for all purposes of Oklahoma law to:

1. Exist for the public benefit;
2. Exist as a legal entity separate and distinct from the settlor and from the governmental entity that is its beneficiary;

Oklahoma State Statutes **60 O.S. § 176-1 D**, states, in relevant part:

Except where the provisions of the trust indenture or of Section 176 et seq. of this title, or of any other law written specifically to govern the affairs of public trusts, expressly requires otherwise, the affairs of the public trust shall be separate and independent from the affairs of the beneficiary in all matters or activities authorized by the written instrument creating such public trust including, but not limited to, the public trust's budget, expenditures, revenues and general operation and management of its facilities or functions; provided, that either the public trust or the beneficiary may make payment of money to the other unless prohibited by the written instrument creating such public trust or by existing state law.

The promissory note was repaid in twelve (12) payments, totaling \$672,056.23, from the City general fund.

The City administration entered into an informal repayment agreement.

We obtained copies of emails beginning in September 2002 reflecting discussions between the former finance director and officials from WFEC concerning a repayment plan for past due bills.

In various emails we were able to obtain, it appears the former finance director and WFEC were working on an agreement to repay the wholesale power bills for July and August 2002. The amount being considered, based on a "proposed WFEC payment schedule" was \$472,063.32.

We identified nine (9) payments, totaling \$472,063.32, between October 2002 and June 2003 corresponding to the "proposed WFEC payment schedule".

Proposed WFEC Payment Schedule			Actual Payments			
		Proposed		Actual	Ck#	Variance
1	October	\$65,564.35		\$65,564.37	12692	\$0.02
2	November	\$39,338.61		\$39,338.61	12782	
3	December	\$52,451.48		\$52,451.48	12896	
4	January	\$65,564.35		\$65,564.35	12952	
5	February	\$65,564.35		\$65,564.35	13086	
6	March	\$52,451.48		\$52,451.48	19469	
7	April	\$52,451.48		\$52,451.48	19511	
8	May	\$39,338.61		\$39,338.61	20070	
9	June	\$39,338.61		\$39,338.61	20348	
		\$472,063.32		\$472,063.34		\$0.02

In an interview with one former Councilman, he stated that neither he nor the Board had been aware of this agreement until after it was paid. We examined the meeting minutes for both the City and APWA and were unable to find any indication that this proposal was discussed or approved by either Board.

Payments to WFEC were approved and subsequently voided.

The method of approval used by the City and APWA consists of a computer generated 'consent agenda' listing the vendor being paid, amount being paid and a description of the payment and various vendor and payment codes. The consent agenda items are then approved in a single motion by the Board.

01-W025	WESTERN FARMERS ELECTRI				
	I-31579	11 -530-775	ELECTRIC POWE LATE PAYMENT	011669	11,067.99
	I-8948	11 -530-775	ELECTRIC POWE PURCHASED POWER	011670	329,703.61

The January 14, 2002 consent agenda reflected a payment to WFEC in

the amount of \$329,703.61. The Board approved the consent agenda. We obtained a copy of purchase order 22864 reflecting that this payment was for the September 2001 wholesale power bill also in the amount of \$329,703.61.

We obtained a history report from the City for payments made to WFEC. We noted this report indicated that this payment was voided. We found no indication on the purchase order or related documentation reflecting that this payment had been voided subsequent to Board approval.

W025	WESTERN FARMERS ELECTRIC			
I-694B	PURCHASED POWER	VOIDED	V 12/17/2001	011670
	11 530-775	ELECTRIC POWER PURCHASES .		

Check #20230 was issued on June 2, 2003 to WFEC in the amount of \$205,549.27, the amount of the wholesale electric bill that was due May 28, 2003. The next subsequent meeting following the issuance of this check was held June 12, 2003. This check did not appear on the consent agenda for the 6/12/2003 meeting, however it did appear and was, apparently, approved at the 7/14/2003 meeting.

At some point check #20230 was voided. We were unable to determine if this check was voided before or after being approved for payment.

Check #23982, payable to WFEC in the amount of \$278,733.21, for the April 2004 wholesale electric purchase was also voided. As a result the April 2004 wholesale power purchase was paid as part of the disbursement from the promissory note obtained in March 2005. We examined the Board minutes and were unable to find where the Board had approved this payment.

In addition we identified check #11049 as having been voided after Board approval. This check is addressed later in this report.

Checks Are Being Issued For Payment Without Approval.

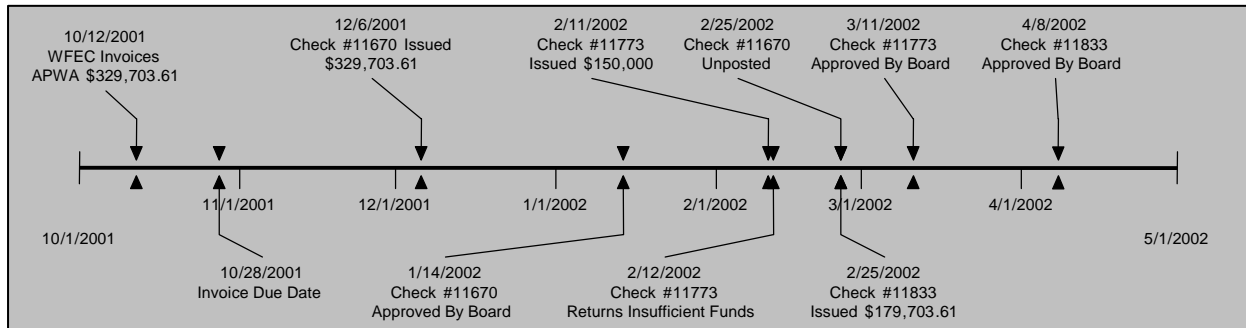
Check #20555 was issued on July 2, 2003 in the same amount as check #20230, \$205,549.27. Records obtained from WFEC indicate that a payment of \$205,549.27 was received on July 16, 2003. We examined the consent agendas for June, July and August and were unable to find where check #20555 was presented for payment approval.

As previously noted we found that check #23982, in the amount of \$278,733.21, was issued on June 1, 2004 to pay the May 2004 wholesale electric bill due on May 28, 2004. We were unable to find a consent agenda indicating that this check was approved for payment.

Obligations are not being presented to the Board in a timely manner.

APWA has adopted a custom of allowing obligations to be paid and then later approved at the next subsequent meeting. This custom appears to have been adopted as a result of the "City/APWA" Ordinances 1073 and 1168.

We noted, in some instances, that the Board is "approving" payments well after the payments have been sent to vendors and, in some cases, have already been presented to the bank for payment. We cite the following timeline as an example:



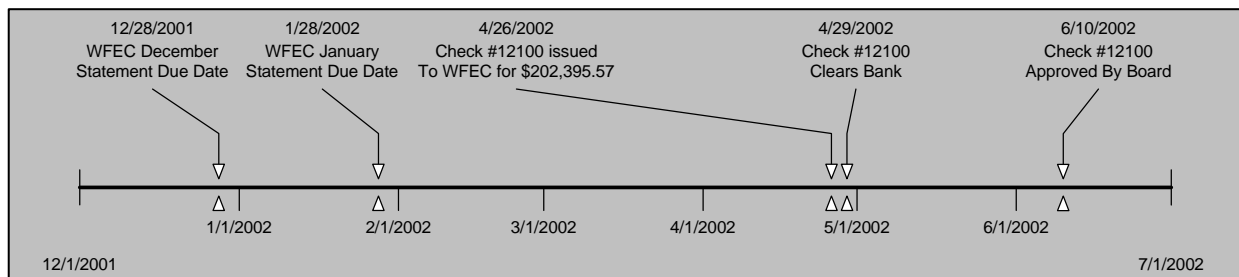
In this instance check #11773, in the amount of \$150,000.00 issued on February 11, 2002, was processed by the bank and returned as an insufficient fund item on February 12, 2002. This check was subsequently approved on March 11, 2002, twenty-seven (27) days after the check was presented to the bank for payment.

We cite the following as additional examples:

- Check #11833 received by WFEC on 2/25/2002 was approved on 4/8/2002.
- Check #12100 received by WFEC on 4/29/2002 was approved on 6/10/2002.
- Check #12372 received by WFEC on 7/3/2002 was approved on 8/12/2002.
- Check #12467 received by WFEC on 8/9/2002 was approved on 9/9/2002.

Check #12100, in the amount of \$202,395.57, was issued on April 26, 2002 and was paid by the bank on April 29, 2002. This payment represented \$156,332.77 for the past due December 2001 wholesale electric payment and a partial payment of \$46,062.80 towards the past due \$184,251.20 January wholesale electric payment. This check appeared on the June 10, 2002 consent agenda for approval forty-two (42) days after the check had already cleared the bank.

At the time the check was issued, the December 2001 payment was one hundred twenty-two (122) days past due. The January 2002 payment was ninety-one (91) days past due. The remaining balance for the January bill, \$138,188.40, was paid June 7, 2002, one hundred thirty (130) days past due.



Consent agendas do not accurately reflect what is being paid.

In order for the Board to approve payments they must rely on the consent agendas provided by the finance department. We identified two problems with the descriptions being used on the consent agendas.

First, the descriptions, in some cases, did not accurately reflect what was being paid. For example, we found nine (9) instances where the description used for late payments actually contained the word "late". However, we found ten (10) late payments that appeared on the consent agendas as "Electric Powe Charge".

Second, while the consent agenda does reflect the vendor and amount being paid, it does not reflect what monthly bill is being paid. In most instances the monthly wholesale power bill is reflected as "Electric Powe Purchased Power". For example, the following entry appeared in the June 2004 consent agenda packet.

01-W025	WESTERN FARMERS ELECTRI				
	1-42621	11 -530-775	ELECTRIC POWE PURCHASED POWER	023815	240,540.39

This agenda item, paid in May 2004, was payment for the February 2004 wholesale electric service. There was nothing on the consent agenda to indicate that this payment was three (3) months late at the time it was paid and four (4) months late at the time of approval.

In another instance one purchase order was used to issue two checks, #11049 and #11165. Check #11049 was listed on the consent agenda for June 11, 2001; check #11165 was listed on the consent agenda for July 9, 2001. Essentially the Board approved the same payment from a single purchase order resulting in two separate checks being written.

From the records we obtained from WFEC, we determined that only one of these payments was actually sent to WFEC. The "A/P History Report" we were provided, reflecting the payments to WFEC, does not include check #11049 as being either paid or voided. We asked for and were provided a list of checks payable to WFEC ranging from check #10470 to #11240. Check #11049 does not appear on this report.

We asked for any type of report that would document the status of check #11049 and were provided another report indicating a search specifically for check #11049. This report reflects that no such check was found, voided or paid. Eventually we were provided a 'print screen' indicating that check #11049 had been voided.

Recommendations:

We recommend the City/APWA, and the City Administration; take a proactive approach in dealing with the finances. When the City/APWA finds that it is unable to pay its obligations on time, efforts should be made to address the financial problem rather than continuing the practice of failing to meet obligations in a timely manner resulting in additional past due charges.

Again we recommend that APWA and the City should be separate and distinct entities as required by statutes.

We recommend that agreements, such as the agreement to repay \$472,063.32 in past due balances, be formal, written and approved by the appropriate governing boards.

Payments should not be approved unless there are sufficient funds to make those payments. When the governing board has approved payments that are subsequently voided, the Board should be notified that previously approved payments have been voided.

Outstanding obligations should be presented to each governing Board, in a timely manner, in order to provide the governing Board with a better picture of financial obligations that are due, past due or otherwise outstanding.

Consent agenda items should accurately reflect what is being paid. Specifically, with regards to wholesale power purchases, the consent agenda items should reflect what month the monthly payment is being approved for to allow the Board to know if they are approving current or past due payments.

Further we recommend that separate consent agendas be provided to each governing Board and that the minutes of each meeting reflect, at minimum, the check numbers that have been approved for payment by each respective Board.

Concern:

- Use of restricted sales tax.
-

Findings:

- Tracking sales tax expenditures was difficult and time consuming.
 - Use of sales tax contrary to Council Resolution.
 - Questionable whether sales tax was used as intended by citizens' vote.
 - Checks voided subsequent to Council approval.
 - Disregard for Board adopted Resolution.
 - Reports appear contradictory.
-

Background:

On February 1, 1995, Ordinance No. 1063 provided for a one-half cent sales tax dedicated for hospital support. On February 14, 1995 the citizens voted in favor of the proposition, which was as follows:

Shall Ordinance No. 1063 of the City of Anadarko, Oklahoma, being an ordinance which imposes an additional one-half (1/2) cent municipal sales tax effective on and after March, 1995, and continuing thereafter for the purpose and use for Hospital operations as directed by the governing body of the City of Anadarko, Oklahoma, in accordance with 68 O.S. Sec. 2701, Sub-section B (1911) be approved?

On January 12, 1998 Ordinance No.1113 was adopted to provide for a temporary additional one-half cent sales tax for hospital operations, which would expire in 24 months. On April 7, 1998 voters approved the proposition, which was as follows:

Shall Ordinance No. 1113 of the City of Anadarko, Oklahoma, being an ordinance which imposes a one-half (1/2) cent municipal sales tax effective on and after JULY 1, 1998, and continuing for 24 months thereafter, for the sole purpose of Hospital operations as directed by the governing body of the City of Anadarko, Oklahoma, and in accordance with 68 O.S. Sec. 2701, Sub-section b (1991) be approved?

The additional ½ cent sales tax was extended for another 24 months on January 24, 2000. Then on January 14, 2002 the additional sales tax was extended for 48 months effective July 1, 2002. In July 2004 the voters voted in favor of allowing the proceeds from the one half cent tax to be used for capital improvements.

Therefore, a total of one cent of the three and one-half cents in City sales tax revenues is dedicated for hospital operations. The total sales tax revenue for the City from July 2000 through June 2005 is outlined in the following table:

Fiscal Year	2000-01	2001-02	2000-03	2000-04	2000-05
Totals	\$2,341,929.78	\$2,384,781.48	\$2,491,349.00	\$2,652,321.28	\$2,600,906.78

On October 12, 1998 the City adopted Resolution 98-32 as a result of a decision to incur indebtedness through the issuance of Sales Tax Revenue Bonds Series 1998 in the amount of \$790,000.00.

According to Section 3 of Resolution 98-32:

SECTION 3. Revenues derived from both of the aforesaid one-half cent ($\frac{1}{2}\%$) sales tax levies are hereby appropriated to the Authority to be dedicated to the payment of principal and interest on the Bonds. The Mayor, City Clerk and City Treasurer hereby are authorized and directed to pay the receipts from the Sales Tax over to the Authority as received for deposit into the Gross Revenue Fund of the Authority and to be used by the Authority for the payment of the principal of and interest on the aforesaid indebtedness and for no other purpose. A certified copy of this Resolution shall be delivered to each of said officials and shall constitute their continuing authority to make such payments until they are otherwise directed by the Council of the City.

On October 14, 1999 Resolution 99-17 was adopted in relation to the issuance of Sales Tax Revenue Bonds Series 1999 in the amount of \$1,375,000.00. The purpose of this bond issue was to refund outstanding indebtedness and provide funds to operate the hospital. Resolution 99-17 also contained the language noted in Section 3 of Resolution 98-32.

Tracking sales tax expenditures was difficult and time consuming.

Prior to changing to the pooled cash method, sales tax proceeds were deposited in the general fund and transferred to the sales tax fund. In order to accurately track the sales tax proceeds would require tracing the source of journal entries, which is a monumental task and extremely time consuming.

To illustrate this, the A/P History Check Report reflects the journal entries that are subtracted from the hospital sales tax amount, which results in a net payment to the hospital.

PHYSICIANS' HOSPITAL				
VENDOR PAYMENT	H	3/13/2001		001225
62 140-00	ADVANCE TO HOSPITAL		6,876.90CR	
VENDOR PAYMENT	H	3/13/2001		001225
62 260-11	DUE TO APWA OPERATING		24,387.25CR	
VENDOR PAYMENT	H	3/13/2001		001225
62 260-01	DUE TO GENERAL FUND		50.32CR	
ADVANCE	H	3/13/2001		001225
62 140-00	ADVANCE TO HOSPITAL		2,500.00CR	
SALES TAX	H	3/13/2001		001225
62 500-138	TRANSFER OUT-HOSPITAL FUND		55,427.12	21,612.65

There were also direct payments to the hospital from APWA. The example shows the transactions for check #1225. The "Advance to Hospital" journal entry amounts of \$6,876.90 and \$2,500.00 were payments to vendors on behalf of the hospital from the sales tax fund.

The "Due to APWA Operating" amount of \$24,387.25 reflects payments to hospital vendors from APWA. The "Due to General Fund" amount of \$50.32 is a reflection of two separate expenses paid from the general fund, one from the current fiscal year and one from the previous fiscal year.

Use of sales tax contrary to Council Resolution.

The amount of sales tax dedicated for hospital related operations is summarized as follows:

Fiscal Year	2000-01	2001-02	2002-03	2003-04
Totals	\$669,122.79	\$681,366.14	\$711,814.00	\$757,806.08

Ordinances No.1063 and No.1113 both were adopted in relation to a sales tax voted on by the citizens of the City of Anadarko to assist in the operation of the City hospital. The proposition voted on by the citizens of Anadarko required that the proceeds from both ½ cent sales taxes be used for the hospital. On October 14, 1999, the Council voted to add a stipulation to the use of both ½ cent sales taxes by passing Resolution 99-17.

Resolution 99-17 provides in relevant part:

SECTION 3. Revenues derived from both of the aforesaid one-half cent (1/2¢) sales tax levies are hereby appropriated to the Authority to be dedicated to the payment of principal and interest on the Bonds. The Mayor, City Clerk and City Treasurer hereby are authorized and directed to pay the receipts from the Sales Tax over to the Authority as received for deposit into the Gross Revenue Fund of the Authority and to be used by the Authority for the payment of the principal of and interest on the aforesaid indebtedness and for no other purpose. A certified copy of this Resolution shall be delivered to each of said officials and shall constitute their continuing authority to make such payments until they are otherwise directed by the Council of the City.

Language contained in Section 3 of Resolution 99-17 indicates that proceeds from both sales tax levies can only be used by the Authority for the payment of principal and interest on the bonds. However, we noted that only a portion of the sales tax revenue was used for this purpose.

For the period July 2000 through June 2004 approximately \$2.2 million of the sales tax revenue was not used for debt service on the bonds as required by Resolution 99-17. According to the fiscal year 2004 annual audit, the 1999 bonds outstanding was \$1,115,000.00. Therefore, it appears that the sales tax proceeds were used for purposes other than the purposes specified in Resolution 99-17.

Questionable whether sales tax was used as intended by citizens' vote.

On two different occasions the Anadarko citizens voted for a ½ cent sales tax for hospital operations. Although the Council passed a Resolution specifically requiring the sales tax be used for debt service on the bonds, it appears, at a minimum, the sales tax should have been used for hospital operations.

The hospital was sold on August 8, 2002, which is near the start of fiscal year 2003. The City continued to collect the hospital sales tax until July 2004, a period of nearly two (2) years, after which the citizens voted to remove the stipulation on the sales tax allowing the City to use the proceeds for capital improvements.

Documentation obtained from the City indicates not only did the City spend sales tax proceeds contrary to Resolution 99-17; the sales tax appeared to be used for purposes that were not hospital related as reflected in the following table:

Fiscal Year	Sales Tax Revenue	Amount for Debt Service	Other Expenses	Variance
2002-03	\$711,814.00	(\$119,203.66)	(\$138,208.50)	\$454,401.84
2003-04	\$757,806.08	(\$141,785.56)	(\$25,832.83)	\$590,187.69
Totals	\$1,469,620.08	(\$260,989.22)	(\$164,041.33)	\$1,044,589.53

Of the \$1,469,620.08 in sales tax collections for the hospital, we could only document \$425,030.55 as being used for hospital related expenses, leaving a variance of \$1,044,589.33 that did not appear to be used in the manner set forth by the citizens' vote.

The use of sales tax designated for the hospital that was devoted to other purposes appears to be prohibited by **Article X § 19** of the **Constitution of Oklahoma** which states:

Every act enacted by the Legislature, and every ordinance and resolution passed by any county, city, town, or municipal board or local legislative body, levying a tax shall specify distinctly the purpose for which said tax is levied, and no tax levied and collected for one purpose shall ever be devoted to another purpose.

Checks voided subsequent to Council approval.

While attempting to track sales tax proceeds, we were provided a "Due from General Fund" report. The report reflects journal entries for sales tax proceeds that are due to the sales tax fund from the general fund. The amount that is due shows as a debit entry and when the amount is actually transferred the amount shows as credit to the sales tax fund.

The report further indicated sales tax transfers from the general fund were discontinued beginning February 2003. When tracing the January journal entries to actual checks we discovered the January checks were voided.

Check	Amount	Date	Approved	Voided
18904	\$84,940.71	1/3/2003	2/13/2003	4/15/2003
19040	\$92,091.09	1/24/2003	2/13/2003	4/15/2003

Disregard for Board adopted Resolution.

Resolution 03-04 established an inter-fund payable in the general fund and a receivable in the sales tax fund in the amount of \$510,624.00. During this time period, sales tax collections of 3.5 cents were deposited in the general fund, then the 1-cent hospital sales tax and ½ cent capital improvements sales tax were transferred to the Restricted Sales Tax Fund.

After the hospital sold in August 2002, the City continued to collect the one-cent sales tax designated for hospital operations through June 2004. We were provided a History Detail report reflecting at the start of fiscal year 2001, the City General Fund owed \$402,857.56 to the Sales Tax Fund. It appears this amount increased at the start of fiscal year 2002 to \$510,624.11.

This balance was carried forward to FY03. On May 29, 2003 the Council approved Resolution 03-04 establishing an inter-fund payable in the General Fund and an inter-fund receivable in the Sales Tax Fund for the \$510,624.11.

Resolution 03-04 provides in relevant part:

WHEREAS, an inter-fund payable exists in the General Fund and an inter-fund receivable exists in the Sales Tax Capital Improvement Fund in the amount of \$510624.00; and,

WHEREAS, recent accounting changes by the Governmental Accounting Standards Board (GASB) Statement No. 34 necessitates a payment plan for long-term inter-fund payables and receivables,

NOW THEREFORE BE IT RESOLVED by the City of Anadarko, Oklahoma, as follows,

The payment of the sum of Five Hundred Ten Thousand Six Hundred Twenty-Four and 00/100 Dollars (\$510,624.00) is payable in forty-eight (48) consecutive monthly payments of \$10,638.00 on or before the 15th day of each month, beginning July 15, 2003.

It appears Resolution 03-04 was adopted as a means to balance the \$510,624.11 amount owed to the Sales Tax Fund by the General Fund. Although Resolution 03-04 specifies a payment plan, it appears this payment plan was ignored as the debt amount increased the following year.

At the beginning of FY04 the amount of sales tax proceeds owed to the Sales Tax Fund by the General Fund increased to \$1,040,215.46. On April 29, 2004 Resolution 04-09 was adopted creating an inter-fund receivable and payable with the new amount of \$1,040,215.46.

It appears that the passage of Resolutions 03-04 and 04-09, providing for the repayment of sales tax proceeds, were done as a superficial means of balancing the funds.

Reports appear contradictory.

Subsequent to the pooled cash method, inter-fund transfers are accomplished through journal entries. The report obtained to show the sales tax proceeds due from the general fund to the sales tax fund indicates a substantial amount of proceeds was not transferred to the sales tax fund. However, another report indicates all the sales tax proceeds was credited to the sales tax fund.

Recommendation:

We recommend the proper legal authority review this finding to determine what action may be necessary.

As previously recommended, when the governing Board approves payments that are subsequently voided, the Board should be informed that the previously approved payments were voided.

The governing Board should ensure City administration takes the necessary steps to ensure internally prepared financial reports less ambiguous, accurate and amounts can be traced to source documentation in a timely manner.

Concern:

- The delay in selling the hospital.
 - The hospital was sold for less then it was worth.
-

Findings:

- Hospital was a significant financial burden on the City.
 - Board minutes are vague making it difficult to determine what transpired during the meetings.
-

Background:

On August 10, 1998, the City Council passed Resolution 98-30 to authorize the calling of a special election related to the sale or lease of the hospital properties.

A RESOLUTION AUTHORIZING THE CALLING AND HOLDING OF A SPECIAL ELECTION IN THE CITY OF ANADARKO, COUNTY OF CADDO, STATE OF OKLAHOMA, ON TUESDAY THE 3RD DAY OF NOVEMBER, 1998, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF ANADARKO, OKLAHOMA, THE QUESTION OF THEIR APPROVAL OR REJECTION OF A PROPOSITION RELATING TO THE SALE OR LEASE OF HOSPITAL PROPERTIES OF SAID CITY

On August 10, 1998 an Election proclamation was executed calling for the election to be held on November 3, 1998. On November 3, 1998 the voters voted in favor of the proposition to sell or lease the hospital.

Shall the City of Anadarko, Oklahoma, be authorized and directed to solicit offers for and to sell or lease all or any portion of the hospital and health care facilities owned by said City?

On May 13, 2002, Resolution 02-03 was adopted to provide for the sale of the hospital.

A RESOLUTION PROVIDING FOR SELLING ALL OF THE CITY'S HOSPITAL PROPERTIES AND FACILITIES; AND DECLARING AN EMERGENCY

The hospital was sold on August 8, 2002 with a contract sales price of \$1,161,965.00. A check in the amount of \$417,729.68, representing the net proceeds from the sale, was deposited August 9, 2002.

Hospital was a significant financial burden on the City.

The March 8, 1996 APWA meeting minutes indicate the hospital experienced cash short fall of \$27,000.00 to \$30,000.00 to meet payroll. The minutes further indicate that \$151,000.00 had previously been provided to the hospital.

Jesse Hays addressed the council that Hospital has a cash-short fall of \$27,000 to \$30,000 to meet payroll. He discussed ways for APWA to advance the Hospital funds and that a motion at Hospital meeting was made to that affect with an understanding that the Hospital would pay that back as soon as possible. Hays said that there is no guarantee when they can pay back, but will pay back the funds as soon as possible. He said that they were embarrassed that they have to come before council.

Hatfield ask if \$60,000 helped and Hays said that it went to pay bills. Hatfield ask about previous funds and Bill Watts said that the \$151,000 shows on hospital balance sheet as a loan, money due to City and APWA.

Since at least 1996, it appears a significant amount of APWA funds have been used to subsidize the hospital. From July 1998 through June 2002 a total of \$1,108,314 in APWA funds were provided to the hospital. In addition to the direct financial support, APWA also donated utilities in the amount of \$387,322. The financial support provided with APWA funds was in addition to the sales tax collected for the hospital totaling \$2,611,249.

In addition to the financial support provided to the hospital, for the period July 1998 through June 2002, APWA funds, totaling \$6,322,260 were transferred to the general fund to assist in general fund operations. It appears that the continued funding provided to the hospital contributed to the cash flow deficiencies in paying APWA vendors.

Even with the assistance of the sales tax revenue and funding provided by the APWA, the hospital did not appear to be financially viable. Annual independent audit reports indicated negative fund balances, operating losses and questions whether the hospital could continue as a going concern.

Fiscal Year	Fund Balance
1999-00	(\$370,149)
2000-01	(\$431,783)
2001-02	(\$384,910)

During the initial attempts to sell the hospital an appraisal was obtained which valued the hospital at approximately \$1.3 million. Although improvements were made subsequent to the 1996 appraisal, due to the financial strain on the City created by the hospital, the \$1,161,965 selling price does not appear to be questionable.

After reviewing the financial documentation, we would find it difficult to question the selling price that was agreed upon by the two parties. Based on interviews, and Board minutes, it appears the City attempted to sell the hospital in 1996. An interview with the former City Manager indicated that six or seven proposals were sent out with no response.

Therefore until the current owners contacted the City, the City had limited options. The hospital was a financial burden that was a significant financial drain on the City.

Minutes for meetings are vague.

The minutes for the City Council and APWA meetings are vague and do not appear to reflect all the discussions. There were several instances in which we were unable to use the minutes to corroborate matters presented to us while conducting interviews. We include the following examples to reflect this issue:

- The former City Manager indicated that six or seven Requests for Proposals (RFPs) were issued in an attempt to sell the hospital. There was no response to the RFPs. The August 12, 1996 APWA minutes reflect that the City Manager was authorized to entertain proposals. On January 11, 1999 the Board voted to approve the RFPs. The March 8, 1999 minutes reflect that a committee was appointed to approve the proposals. This was the last discussion recorded concerning the RFPs.
- The August 1, 1996 APWA minutes indicated the bid for the hospital appraisal was approved; however, the minutes do not reflect any further discussion of the appraisal, such as the date appraisal was completed, who performed the appraisals and what the appraised amount was.
- Interviews indicated the former City Manager informed the Board on several occasions of the need to raise utility rates; however, we found no such discussions in the minutes. The former Mayor, during an interview also stated that the Board had discussions concerning raising utility rates.
- The February 12, 2001 APWA minutes indicate two Board members volunteered to be on a rate review committee. We were advised that the rate review committee recommended raising utility rates. The minutes reflect no recommendations that were made by the committee, nor any further discussions having been held concerning the rate committee's finding.

Recommendations:

No recommendation necessary regarding the sale of the hospital.

Meeting minutes should be written in a manner in which an individual that did not attend the meeting could review the minutes and determine the business that transpired and the actions taken.

Concern:

- Advances to hospital.
-

Finding:

- Lump-sum payments totaling \$1,017,000.00 were remitted to the hospital with no documentation or accountability.
-



The July 17, 1998 APWA Board minutes indicate that the hospital was in need of approximately \$250,000.00 to pay vendors, payroll taxes and emergency room doctors. APWA, in addition to the previously noted donation of \$387,322 in utility expenses, began providing significant financial assistance to the hospital in the form of direct payments.

Beginning September 1998 and continuing until the sale of the hospital in August 2002, APWA provided \$601,725.00 in direct advances. These transfers contained no supporting documentation and no apparent accountability provisions.

Date	Check	Amount
9/3/98	7991	\$30,000.00
9/17/98	8030	\$36,000.00
10/2/98	8079	\$43,000.00
1/5/00	9537	\$50,000.00
1/18/01	10656	\$35,000.00
1/31/01	10663	\$35,000.00
2/14/01	10707	\$25,000.00
4/3/01	10856	\$20,000.00
6/8/01	11056	\$35,000.00
7/19/01	11176	\$50,000.00
8/7/01	11244	\$25,000.00
8/22/01	11290	\$20,000.00
12/7/01	11630	\$20,000.00
12/21/01	11677	\$25,000.00
1/4/02	11721	\$36,000.00
2/1/02	11765	\$27,500.00
6/26/02	12340	\$20,000.00
7/5/02	12374	\$10,000.00
7/17/02	12420	\$35,000.00
7/30/02	12427	\$24,225.00
Total		\$601,725.00

In addition to payments to the hospital from the APWA, lump-sum payments to the hospital were also remitted from the restricted sales tax fund. These expenditures, which totaled \$415,275.00, were also labeled as advances. Based on documentation provided, these payments appeared to be from a source other than the sales tax designated for the hospital. Expenditures ranging from \$9,500.00 to \$45,000.00 were remitted to the hospital from the sales tax fund with no supporting documentation and no accountability.

Date	Check	Amount
6/1/00	1140	\$15,000.00
8/17/00	1167	\$25,000.00
9/1/00	1174	\$20,000.00
9/29/00	1182	\$17,500.00
10/26/00	1190	\$40,000.00
11/8/00	1191	\$25,000.00
11/22/00	1198	\$40,000.00
1/9/01	1207	\$10,000.00
6/21/01	1260	\$25,000.00
8/3/01	1269	\$45,000.00
11/16/01	1304	\$42,500.00
12/28/01	1320	\$9,500.00
1/18/01	1324	\$37,500.00
6/28/02	1370	\$27,500.00
7/30/02	1379	\$35,775.00
Total		\$415,275.00

Recommendation:

City and APWA Board members need to establish internal controls, which provides better accountability for the expenditure of public funds, and ensure no payment is remitted without supporting documentation.

Concern:

- **AEDA entered into a subordination agreement without Council approval.**
-

Findings:

- **The City did not have ODC approval to reassign the CDBG funds to APWA.**
-

A subordination agreement is a written contract in which a lender who has secured a loan by a mortgage or deed of trust agrees with the property owner to subordinate the first loan to a new loan (thus giving the new loan priority in any foreclosure or payoff).

The Department of Economic and Community Affairs (DECA)¹ provided a Community Development Block Grant (CDBG 4054N-D21) to the City of Anadarko. The grant agreement was dated June 26, 1985 and signed by the Mayor of Anadarko.

The grant amount was \$667,418.00 consisting of \$521,418.00 in matching funds and \$146,000.00 in DECA funds. According to the agreement, payments from the grant were to be issued to the City of Anadarko. The grant period was from June 1, 1985 to May 31, 1986.

The grant purpose was to provide for the "Economic Development renovation of hotel to be converted into office space". The hotel that was to be renovated is referred to as the Bryan Center. Part II section 1 (a) of the grant agreement states, in part:

None of the work and services covered by this agreement may be subcontracted without prior written approval of DECA. All technical and administrative consultants engaged by the Grantee must be fully qualified by DECA.

On July 1, 1985 an agreement was executed between APWA and CDT Investments, Ltd. (CDT) as "participating parties in the State Community Development Block Grant Project No. CDBG 4054N-D21".

This agreement states that CDT "shall make, by way of new construction, restoration, equipment purchase or rehabilitation, capital improvements to its property situated on Lots 1-5, Block 48, of the Original Townsite Plat of the City of Anadarko".

Additionally the agreement provided for a loan from APWA to CDT in the amount of \$146,000.00 to be repaid over a period of ten (10) years at 2% per annum and providing for a balloon payment of \$70,000.00 at the end of the 10th year.

The first paragraph of this agreement reflects the following:

This agreement is entered into by and between the Anadarko Public Works Authority, a Municipal Trust of the City of Anadarko (hereinafter called "City") and CDT Investments, LTD.

¹ DECA was later renamed Department of Commerce.

The Chairman of APWA signed the agreement.

On January 27, 1986 CDT entered into a real estate mortgage agreement with APWA for the purpose of securing a loan in the amount of \$146,000.00. The real property listed on the mortgage agreement was the same property listed on the previously-cited contract between APWA and CDT dated July 1, 1985.

On September 7, 1993 APWA entered into a subordination agreement with Anadarko Bank and Trust (AB&T). This agreement contained the following:

It is agreed that the foregoing mortgage in favor of Anadarko Bank and Trust Company shall be a prior and superior lien upon said property, having a priority ahead of the mortgage of the Authority....

On May 31, 2002 a mortgage deed, listing the same property as the previous agreements, was assigned to the Anadarko Economic Development Authority (AEDA) to secure the payment of principal sum of \$147,445.15. The mortgage deed contained the following language:

...subject to the rights granted by the Lender to Anadarko Bank and Trust Company pursuant to a Subordination Agreement dated September 7, 1993 and recorded at Book 1834 at Pages 337 and following the records of the County Clerk of Caddo County, Oklahoma.

On November 26, 2002 AEDA entered into a subordination agreement with Anadarko Bank and Trust. This agreement contained the following:

It is agreed that the foregoing mortgage in favor of Anadarko Bank and Trust Company shall be a prior and superior lien upon said property, have a priority ahead of the mortgage of the Authority...

On December 12, 2002 the Anadarko Public Works Authority executed a Release of Mortgage for the property listed in all of the above contracts and agreements.

The February 26, 2002 minutes for the AEDA meeting reflect the following:

2.2 Discuss/vote to approve Bryan Center Loan Agreement.

[Member] reported that [representative of CDT] had agreed to a new note with AEDA on the Bryan Center loan. She [representative of CDT] had indicated that her arrangement with Wichita Housing Authority was as expected, so she agreed to refinance outstanding principles and interest for 30 years at 2% interest.

The motion passed.

The December 12, 2002 minutes for the APWA meeting reflect the following:

2.2 Discuss/vote to authorize release of mortgage for Lots 1-5, Block 48, Original Townsite of the City of Anadarko, in accordance with actions of the Anadarko Economic Development Authority.

The City Manager stated this is a transfer of the mortgage from the Anadarko Public Works Authority to the Anadarko Economic Development Authority, rather than a forgiveness of the original debt.

This motion passed.

It appears the CDBG funds provided to the City by DECA were assigned to APWA. APWA then loaned these funds to CDT. Subsequently AEDA essentially refinanced the loan between CDT and APWA and entered into the subordination agreement that is the focus of this concern.

Article III (b) of the APWA Trust Indenture provides that the Authority may:

...enter into any contractual arrangements in relation thereto, including (but not restricted to) purchase contracts, sale contracts, construction contracts, maintenance contracts, operation contracts, service contracts, leases, lease-purchase agreements, options, conveyances, and agreements to enter into or make any or either of them....

Article VIII (3) of the AEDA Trust Indenture provides the following powers:

(3) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions hereunder.

(5) To make and alter rules and regulations pertaining to any loan or other program developed by the authority.

(6) To finance, refinance, acquire, establish, develop, construct, enlarge, improve, extend, maintain, equip, operate, lease, furnish, provide, supply, regulate, hold, store and administer any of the facilities designated pursuant to Article IV hereof as the Trustees shall determine necessary for the benefit and development of the Beneficiary.

AEDA and APWA, by virtue of their respective Trust Indentures, appear to have the authority to enter into agreements and contracts. There are no provisions in either Trust Indenture that appear to require approval of the City Council before entering into any such agreement.

We contacted the Oklahoma Department of Commerce (ODC)² who advised us that the grant funds should have never left the control of the City. Accordingly, ODC's position concerning the CDBG funds, is that the transfer of funds from the City to APWA and subsequently from APWA to AEDA was improper and done without the consent and approval of DECA.

Recommendation:

The City should contact ODC to determine what steps may be required to come into compliance with the CDBG grant.

² DECA was the predecessor to the Oklahoma Department of Commerce.

Concern:

- Three (3) AEDA members voting on the subordination agreement had a conflict of interest.
-

Findings:

- No conflict of interest was found.
-

The focus of the concerns stems from a possible conflict of interest with two (2) AEDA Board members voting on the previously-cited subordination agreement while they were employed by Anadarko Bank & Trust (AB&T). The conflict concern with the third AEDA member stems from her being related, by marriage, to one of the AEDA Board members that was employed by AB&T at the time of the vote and, by virtue of the relationship, also had a conflict of interest.

The subordination agreement was executed on November 26, 2002 and was filed with the Caddo County Clerks Office at 2:10pm the same date.

We examined AEDA meeting minutes and found two (2) instances where it appears that AEDA approved the subordination agreement. The first approval appears to have occurred on August 27, 2002. The meeting minutes reflect the following:

2.4 Discuss/vote on Subordination Agreement with Anadarko Bank & Trust.

The owner is adding on to the existing mortgage on the Bryan Center with Anadarko Bank & Trust in the amount of \$15,000. AEDA was approached by Anadarko Bank & Trust to subordinate this amount on the mortgage with AEDA.

Motion was made by Kilpatrick and seconded by Dakil to approve the subordination agreement with Anadarko Bank & Trust.

AYES Rogers, Cofer, Dakil, Kilpatrick, and J. Thompson
NAYES None

Chairman declared motion passed.

The November 26, 2002 AEDA minutes reflect the Board approved the subordination agreement for the second time. The minutes reflected the following:

2.4 Discuss/vote to take action regarding existing mortgage on Bryan Center and requested subordination of loan in favor of Anadarko Bank & Trust.

After much discussion, Kelley made the statement in form of a motion that if AEDA is not going to lose any ground, and the agreement would help sell the property that she would make that motion. Bailey made the second.

AYES: Rogers, Bailey, Cofer, Dakil, Kelley, J. Thompson
NAYS: None

Chairman declared motion passed.

In both instances one of the two initial AEDA members surrounding this concern, who was employed with AB&T, was not present at either meeting and, therefore, did not vote in either instance.

The second Board member, who reportedly worked for AB&T, did vote in both instances approving the subordination agreement, however, he was not employed at AB&T at the time of either vote.

The third member with a questioned conflict was related, by marriage, to the second member who was not, at the time of the votes, employed by AB&T. Furthermore, this member was not present and did not vote on the November 26, 2002 motion approving the subordination agreement for the second time.

Recommendations:

No recommendation necessary.

Concerns:

- The City's lease agreement for the Dietrich Memorial Golf Course.
 - The AEDA loan to APWA & City (\$20,000) for purchase of golf equipment.
-

Findings:

- The City entered into a multi-year lease agreement.
 - The City entered into a multi-year loan agreement with AEDA.
-

On June 12, 2003 the City and APWA entered into a lease agreement with private parties for the purpose of leasing the golf course property. The relevant conditions of the lease include:

- The lease period begins July 1, 2003 and ends June 30, 2028 (25 years).
- The City and APWA are to pay monthly payments from \$1200 to \$1350 per month.
- The City and APWA are to maintain the facilities.

The lease agreement obligated the City for 25 years at a cost of \$382,200.00 with no provision for the City to terminate the lease. Payments for the lease are being made from the City general fund.

Article X § 26 of the **Constitution of Oklahoma** states, in relevant part:

Except as herein provided, no county, city, town, township, school district, or any other political corporation or subdivision of the state, shall be allowed to become indebted, in any manner, or for any purpose, to any amount exceeding, in any year, the income and revenue provided for such year without the assent of three-fifths of the voters thereof, voting as an election, to be held for that purpose....

Oklahoma State Statutes **62 § 430.1** states, in relevant part:

The governing board of any county, city or town, or school district is authorized to rent, on a monthly basis real or personal property as authorized by the governing board ...Any such rental contract extending beyond June 30 of the fiscal year shall contain provisions for mutual ratification of renewal under the conditions provided in this section.

We reviewed the minutes for the City and found no record reflecting a vote of the people approving the multiple year lease. Lease payments as well as maintenance and operations payments are being made from the City general fund.

On June 9, 2003 the City and APWA entered into a contract with the Dietrich Memorial Golf and Country Club to purchase golf course furniture and equipment. The contract states that the sale price shall be \$20,000.00 and shall be paid in full on or before July 1, 2003. The former Mayor signed the contract as both the Mayor and APWA Chairman.

Subsequent to that contract the City and APWA entered into a loan agreement with the Anadarko Economic Development Authority (AEDA) in the amount of \$20,000.00. The contract specifies that the purpose of the loan was to provide the funds for the purchase of property associated with the June 9, 2003 contract.

The loan contract, citing the AEDA as "Lender" and the City/APWA as the "Borrower", reflects the following conditions:

Lender agrees to loan \$20,000.00 to the Borrower for the purpose of reimbursing costs incurred by the Borrower associated with the purchase of the stated assets.

Lender agrees to charge a two per cent (2%) rate of interest on the unpaid principal for a period of sixty (60) months, with payments established in the amount of \$350.56 per month, as illustrated on the attached amortization schedule.

Lender agrees to delay repayment of the loaned amount for a period of twelve (12) months, with monthly payments to begin July 1, 2004. If payment is remitted later than the 15th day of the month it is due, a late fee equal to five per cent (5%) of the monthly payment amount shall be assessed to the monthly payment. [Example: \$350.56 plus 5% penalty = \$368.09]

We obtained documentation from the City reflecting that the loan and interest payments are being paid from the City general fund. This loan contract, obligating City funds for a period of five (5) years, appears to be in violation of **Article X § 26** of the **Constitution of Oklahoma**, previously cited in this report section.

Oklahoma State Statutes **60 O.S. § 176-1 A**, previously cited in this report, requires that public trusts *"exist as a legal entity separate and distinct from the settlor and from the governmental entity that is its beneficiary"*.

Again this appears to be another instance where the City has used APWA to enter into a contract that the City would not be able to enter on its own. Using AEDA as a funding vehicle for the City/APWA purchase contract further exacerbates the blurring of the *separate and distinct* requirements set forth in **60 O.S. § 176-1 A**.

Recommendations:

The City should consult with their legal advisors concerning the validity of the multiple year contracts the City entered into concerning the lease of the golf course property and the subsequent AEDA loan for the purpose of funding the City and APWA purchase of golf course equipment.

The City, APWA and AEDA should operate as separate and distinct entities as required by state statute.

We recommend a review by the proper legal authority to determine if this contract can be considered legal and binding.

Concern:

- The city attorney is working without a contract.
-

Finding:

- There is no contract for the city attorney as required by city ordinance.
-

According to the current City Manager the City has utilized the services of the same attorney for about fifteen years. The City Manager stated that the City has been unable to locate a contract between the City and the attorney.

The City is paying the City attorney \$833.33 a month for professional services and an additional \$125.00 for court appearances. The City does not appear to have a contract on file for the City attorney; therefore, we were unable to document how the fees were established. Further, the absence of a contract for the attorney appears to be contrary to City ordinances.

Section 2-1C-1 of the City Code provides:

The city attorney shall be appointed by the city council, on a contractual basis. See article IX of the city charter. (1988 Code § 1-46)

According to Section 2-1C-2 of the City Code:

- A. Legal Advice Regarding City Officials: It shall be the duty of the city attorney to give legal advice on questions submitted to him by the city council, when the subject matter concerns the powers of any municipal officials or employees, or the performance of their duties.
- B. Draft Ordinances, Legal Documents: The city attorney shall draw such ordinances, resolutions, notices, forms, leases, deeds, papers or other documents as may be required of him by the city council.
- C. Proceedings In Court: The city attorney shall be authorized to appear, prosecute and defend all actions wherein the city is a party, and he shall institute proceedings in courts of law upon the order of the city council.
- D. Other Duties: The city attorney shall perform such other duties as the city council may require; provided, that such duties are included within the scope of the contractual arrangement. (1988 Code § 1-46)

Recommendation:

The City Council and administration should take immediate steps to ensure that a written contract is executed with the City attorney.

Concern:

- The former Mayor's signature stamp was used after leaving office.
-

Finding:

- The Mayor's signature stamp was used after her resignation.
 - Signature stamps were not registered as required by statute.
-

The former Mayor tendered a resignation letter dated and effective August 23, 2004. The City Council meeting minutes for a special meeting held on August 24, 2004 reflect a new Mayor listed on the attendance roll. The Council voted to accept the resignation of the former Mayor effective August 23, 2004.

We obtained copies of sixteen (16) checks, totaling \$356,649.85, drawn on the Anadarko Operating Account and dated August 25, 2004. These checks bore the signature stamps of the former Mayor and the City Clerk.

Oklahoma State Statutes **62 O.S. § 602**, states:

Any authorized officer, after filing with the Secretary of State his manual signature certified by him under oath, may execute or cause to be executed with a facsimile signature of his manual signature any public security, or any certificate there on or thereto.

Upon compliance with this act by the authorized officer, his facsimile signature has the same legal effect as his manual signature.

We contacted the Oklahoma Secretary of State to determine if the signature stamps of the former Mayor and former City Clerk had been filed, as required by **62 O.S. § 602**. The Oklahoma Secretary of State has no record of these signature stamps having been filed.

Recommendation:

The City Council should consider adopting a policy providing for an alternative procedure for signing checks in case of any future sudden or unexpected departures. Such procedures should contain a provision allowing an individual holding a designated position the authority to countersign checks in the event an authorized check signer is no longer available.

The City Council should also ensure signature stamps are filed with Secretary of State in accordance with **62 O.S. § 602**.

Concern:

- The former City Manager was paid an unauthorized bonus.
-

Finding:

- The former City Manager's contract is vague.
 - One payment totaling \$3,100.00 appear to be contrary to contract provisions.
-

On June 9, 2003 the City entered into a twelve (12) month contract agreement with the former City Manager. The terms of the agreement set forth conditions of employment, termination, resignation and the payment of bonuses.

On July 14, 2003, one month after the contract was executed, the City Council accepted the resignation of the City Manager to be effective August 8, 2003, two months after the execution of the June 9, 2003 contract.

Section 4 of the contract specifies the bonus provisions, providing, in relevant part:

A. Salary for services as City Manager shall be based at \$62,000.00 annually.

B. Additionally, an amount equal to 10% (ten per cent) of the Manager's salary shown in Section 4A shall be paid to him in lump-sum fashion, half (5%) at the time of the first regular payroll of the contract period, and half (5%) at the time of the thirteenth payroll of the contract period.

1. These payments shall be subject to the usual and customary withholdings, including pension calculations.
2. In recognition of exceptional job performance, a \$5000.00 bonus shall be paid to the Manager during the course of this Agreement in lump-sum fashion, or whatever other manner he may so desire, at a date also to be determined and specified by the Manager.

During the three (3) month period we noted the former City Manager was paid three (3) bonuses totaling \$11,200.00. These bonuses were as follows:

Date	Check	Amount	Purpose
6/27/03	63570	\$3,100.00	Section 4 (B) contract provision for ½ of the 10% payment
7/25/03	63797	\$5,000.00	Section 4 (B) (2) contract provision for performance bonus
8/22/03	64087	\$3,100.00	Section 4 (B) contract provision for ½ of the 10% payment

The employment contract provides for two bonuses equivalent to 5% of his \$62,000.00 annual salary (\$3,100.00 each) to be paid on the "first regular payroll" and the "thirteenth payroll of the contract period". The former City Manager resigned his position prior to the thirteenth regular payroll, therefore we question if the second bonus payment of \$3,100.00 was proper.

The contract provides for a \$5,000.00 "exceptional job performance" bonus to be paid "during the course of this Agreement" and "at a date also to be determined and specified by the Manager". The contract does not indicate the method of review or manner in which this determination shall be made. As such it appears, based upon the wording of the contract, the City Manager could elect to receive the \$5,000.00 bonus the day following the contract agreement date if he so chooses.

Although the contract does not define "exceptional job performance" we noted that during the same month the performance bonus was paid, July 2003, the City/APWA paid a \$205,549.27 wholesale electric bill that was due May 28, 2003. Additionally the City/APWA was invoiced \$5,036.00 on July 21, 2003 for late payment penalties.

The District Attorney's office contacted the former City Manager concerning the \$3,100.00 bonus. As a result of that contact, the bonus has been repaid.

Recommendation:

We recommend the City Council consult legal counsel regarding the second payment of \$3,100.00 to the former City Manager. Further we recommend that future contracts that include the payment of performance bonuses also include criteria and evaluation procedures to be followed in determining the exceptional performance.

The City Council should consider amending contract language to include a provision providing that performance bonuses will only be paid upon approval of the Council.

We recommend that future contracts include specific payment methods including payment dates and payment amounts.

We recommend the proper legal authority review this finding to determine what action may be necessary.

Concern:

- The former City Manager and the former City Clerk improperly received payment for compensatory time upon leaving office.
-

Findings:

- Lack of supporting documentation for the payment of compensatory time.
 - Ambiguous guidelines for the payment of compensatory time.
 - A lack accountability and oversight of time records.
 - Time records are missing or incomplete.
-

We reviewed the Personnel Policies and Procedures for the policies that pertain to compensatory time:

Section 413 describes how compensatory time can be used to compensate an employee for working overtime.

413. Compensatory Leave

Compensatory time may be used to compensate an employee for overtime worked as allowed under the Fair Labor Standards Act (FLSA) to a maximum of 240 hours. Compensatory time shall be credited at the rate of one and one-half times the hours actually worked overtime.

Section 414 addresses the use of compensatory time.

414. Use of Compensatory Time

1. Compensatory time shall be granted at a time convenient to and at the request of the employee.
2. The City Manager or his/her designee may deny a request for compensatory time off if the employee's absence would unduly disrupt the work units operation.

Section 415 appears to authorize the payment for accrued compensatory time.

415. Compensatory Time at Separation

Employees shall be paid for all accrued compensatory time at the time of separation in compliance with established pay procedures.

On June 10, 1996, Resolution 96-16 was adopted and appears to allow administrative employees, including the City Clerk and City Manager, to accrue compensatory time.

Resolution 96-16 provides in relevant part:

Compensatory leave shall be used to compensate employee [sic] for overtime worked in accordance with the rules on hours of work and overtime. All department heads, the City Manager, City Clerk, City Treasurer and other monthly salaried employees of the City of Anadarko shall be entitled to compensatory leave for the hours worked exceeding 40 hours per week, in accordance with these policies. All compensatory leave shall be properly documented and submitted to the City Manager for approval.

Payment for compensatory time.

Based on the payroll reports provided, the former City Manager was issued a check, dated August 8, 2003, in the amount of \$8,202.10. Records reflect the gross amount of this check was \$14,744.83 and included the payment of \$7,941.15 for 266.41 hours of accrued annual leave and \$6,803.68 for 228.25 hours of accrued compensatory time.

The former City Clerk was issued three checks; dated November 24, December 10 and December 23, 2004, totaling \$5,618.96. Records reflected the total gross amount for these checks was \$7,917.07 for the payment of 309.14 hours of accrued compensatory time.

Lack of supporting documentation for accrual of compensatory time.

We obtained time sheets submitted by the former City Manager and former City Clerk to determine if documentation supports the amount of compensatory time accrued. We reviewed the time sheet records that the City was able to provide.

Each time sheet covers a two-week period. Each time sheet includes spaces to record time worked, sick leave, vacation leave, holiday leave, comp used, "call back", and "other" as well as totals for each of the above.

Based on our review of available time sheets for the former City Manager, the following findings were noted:

- We were provided one time sheet for 2001.
- We were provided twenty-four (24) of twenty-six (26) time sheets for 2002.
- We were not provided any time sheets for 2003.

Due to a lack of records we are unable to substantiate the payment of \$6,803.68 for 225.25 hours of compensatory time paid to the former City Manager.

Based our review of available time sheets for the former City Clerk, the following findings were noted:

- We were provided sixty-one (61) time sheets for the 2001-2004 period.
- Twenty-seven (27) of the time sheets provided were not approved.
- Six (6) time sheets did not reflect the regular hours worked.
- Two (2) time sheets appear to have conflicting hours for the same work dates.

Due to a lack of records we are unable to substantiate the payment of \$7,917.07 for 309.14 hours of compensatory time paid to the former City Clerk.

The compensatory time payments to the former City Manager and City Clerk were approved as part of a total payroll approval.

Ambiguous guidelines for the payment of compensatory time

Sections 413, 414, and 415 of the personnel policies appear to authorize the accrual, use, and payment for compensatory time. These policies appear to pertain to employees that are subject to the Fair Labor Standards Act (FLSA). It also appears that these policy provisions would not apply to administrative employees, which are exempt from FLSA.

Resolution 96-19 appears to include administrative staff with the City employees in allowing the accrual and use of compensatory time. This resolution, however, does not address the monetary payment for compensatory time.

Personnel policies, which pertain to compensatory time, only apply to employees that are subject to FLSA. Therefore, we were unable to determine if section 415, which authorizes the payment of compensatory time, would apply to administrative staff that are not subject to FLSA.

Internal control weaknesses.

There is an apparent lack of oversight and accountability regarding the time reported by the former City Manager and City Clerk. The former City Manager approved his own timesheets and 44% of the former City Clerk's timesheets, that were found, were not approved. Resolution 96-16 was apparently intended to add the City Manager and City Clerk to the same category as the other employees that are allowed to accrue compensatory time. By allowing administrative officials to receive payment for accrued compensatory time with a lack of oversight and accountability, provides a potential and incentive for abuse.

Recommendation:

The City Council should consult with legal counsel to determine whether the former City Manager and City Clerk were entitled to payment for accrued compensatory time.

The City Council should consider amending the compensatory time policy to clearly reflect the policy intent and establish internal controls sufficient to ensure time records are maintained, complete, accurate, signed by the employee and properly approved.

The City Council may consider adopting policies requiring that compensatory time be taken in a timely manner, and prior to the taking of annual leave, to avoid additional payroll expenses.

The City Council may consider adopting a policy providing that the City Council be apprised of accumulated compensatory time of City administration officials to prevent the accumulation of significant amounts of compensatory time requiring substantial payments to officials upon their departure.

The City Council should consider requiring that payroll expenditures other than normal salaries be approved independent of normal payroll claims.

We recommend the appropriate legal authority review this finding to determine what action may be necessary.

Concern:

- **The former Mayor improperly received compensation while performing duties as acting City Manager.**
-

Findings:

- **Compensation paid appears to be allowed by City Charter.**
-

The basis of the concern stems from the former Mayor, during her term as Mayor, became the acting City Manager and, as a result, received compensation for holding that temporary position.

Oklahoma State Statutes **Title 11 Chapter 1 Article X § 10-112**, states, in relevant part:

Neither the mayor nor any members of the city council may be appointed city manager during the term for which they shall have been elected nor within two (2) years after they cease to hold such office.

Oklahoma State Statutes **11 O.S. § 1-102**, states, in relevant part:

1. "Charter municipality" or "Municipality governed by charter" means any municipality which has adopted a charter in accordance with the provisions of the Constitution and laws of Oklahoma and at the time of adoption of the charter had a population of two thousand (2,000) or more. Once a municipal charter has been adopted and approved, it becomes the organic law of the municipality in all matters pertaining to the local government of the municipality and prevails over state law on matters relating to purely municipal concerns;

Oklahoma State Statutes **11 O.S. § 13-109**, states:

Whenever a charter is in conflict with any law relating to municipalities in force at the time of the adoption and approval of the charter, the provisions of the charter shall prevail and shall operate as a repeal or suspension of the state law or laws to the extent of any conflict.

Article V Section 5.4(h) of the City Charter states:

(h) In the event of absence, disability of or vacancy in the office of city manager, the mayor shall perform the duties of city manager, until the council with due diligence can appoint a manager, in which event the city council may prescribe such compensation for the mayor so acting as they deem just.

The City Charter provides that the Mayor shall, in the absence of a City Manager, assume the duties of City Manager and may be compensated for holding that position.

Recommendations:

No recommendation necessary.

Concern:

- The City is not encumbering funds prior to purchasing items.
-

Findings:

- We identified twenty-three (23) instances of items being purchased prior to funds being encumbered.
-

Oklahoma State Statutes **62 O.S. § 310.1A** states, in relevant part:

A. Unless otherwise provided by ordinance, officers, boards, commissions and designated employees of cities and towns, hereinafter referred to as the purchasing officer, having authority to purchase or contract against all budget appropriation accounts as authorized by law shall submit all purchase orders and contracts prior to the time the commitment is made, to the officer charged with keeping the appropriation and expenditure records or clerk, who shall, if there be an unencumbered balance in the appropriation made for that purpose, so certify in the following form:

Based on our review of the City Charter and City Code, along with interviews with City employees, we are unable to find a City ordinance or policy that specifically addresses the encumbrance process. However, based on interviews it appears that the City has informally adopted the requirements set forth in **62 O.S. § 310.1A**.

We identified twenty-three (23) instances, totaling \$3,533.84, reflecting the purchase of items prior to the issuance of a purchase requisition and purchase order.

Recommendations:

We recommend the City monitor the preparation of purchase orders to ensure that funds are being encumbered prior to purchases as required by Title 62 of the Oklahoma State Statutes.

In addition to complying with Title 62 of the Oklahoma Statutes, the City may consider adopting and following a clear and concise encumbrance policy which would help prevent future instances where checks are written and then subsequently voided due to lack of funds.

Concerns:

- The City paid/donated utilities and janitorial expenses to private individuals by allowing the use of a City-owned facility without charge.
-

Findings:

- The City has no records reflecting use of the facility.
 - The utility and janitorial expenses were paid by APWA, not the City.
-

The Fern S. Brooks Center, previously known as the Eastside Community Center, is located at 306 East Washington Street in Anadarko. The focus of this concern stems from the City allowing the facilities to be used by various people and organizations free of charge while the City pays for utilities and janitorial services for the facility and thereby creating a conflict with **Article X Section 15A** of the **Constitution of Oklahoma**, which states:

A. Except as provided by this section, the credit of the State shall not be given, pledged, or loaned to any individual, company, corporation, or association, municipality, or political subdivision of the State, nor shall the State become an owner or stockholder in, nor make donation by gift, subscription to stock, by tax, or otherwise, to any company, association, or corporation.

We were unable to locate, and the City was unable to provide, any agreements specifying fees or responsibilities for the use of the facility. Furthermore, the City was unable to provide any documentation reflecting previous use of the facility.

We were provided documentation reflecting the expenditure of funds for janitorial, utility and other services paid on behalf of the facility. We noted that the expenditures appear to have been paid by APWA rather than by the City.

We are unable to substantiate the concern related to charges levied for use of the facility because the City did not maintain or was unable to provide documentation reflecting who or what entities had used the facilities in the past.

On June 23, 2005 the City Council, during a Special Meeting, addressed the issue of rental fees for City-owned property, including the Fern S. Brooks Center. As a result of that discussion the City Council approved set fees for the use of City-owned properties along with a cleaning deposit requirement.

Recommendations:

We recommend the City maintain the records pertaining to the use of City-owned facilities as well as the fees collected and expended to determine if the fees that have been set are sufficient to cover expenditures related to the maintenance of the building.

Concerns:

- The City spent money on property it does not own.
 - \$36,000 was expended for construction and remodeling with no bids
-

Findings:

- City owns the property.
 - An emergency was declared in lieu of bidding requirements.
 - The Council did not vote on a separate emergency clause as required by City Ordinances.
 - The Mayor and City Clerk did not sign the remodeling contract as required by City Charter.
-

The focus of this concern was that the City had expended funds for remodeling the Veterans of Foreign Wars (VFW) building that the City did not own and the City failed to properly accept bids for the remodeling. The VFW building is located at 415 W. Main St. in Anadarko.

Ownership Of The Property:

According to County Assessor records, the City of Anadarko owns property containing the legal description 15-07N-10W. On April 4, 1988 the City of Anadarko executed a lease agreement with Veterans of Foreign Wars (VFW). The legal description on the lease matches the legal description from the Assessors records. Therefore, it appears the City owns the property that is leased to the VFW.

Construction and remodeling

The February 10, 2003 City Council minutes indicated the Senior Nutrition Center moved to the VFW Hut.

On January 31, 2003 the City of Anadarko received \$36,000.00 in special funding through the Association of South Central Governments (ASCOG) for the construction/remodeling of the senior center. The funding period set forth in the contract with ASCOG was July 2002 through June 30, 2003. Contract terms also required that expenses be incurred during the funding period, stating, in part:

No contract funds may be used for expenses incurred either prior to or after the time period specified.

On April 18, 2003 T.J.'S Remodeling submitted a proposal for the renovation of the senior citizens' kitchen in the amount of \$58,450.00. On May 12, 2003 the City Council declared an emergency and authorized the contract for the remodeling of the Senior Citizen Center.

We noted the meeting minutes as follows:

Riffel stated Tim Johnson, contractor for T.J. Construction, has been involved with Senior Nutrition Center since several months ago. Money designated by ASCOG, and must be used by June 30th. Logical approach is to repair VFW building as far as the money will go, and then continue when funds are available.

Motion was made by Dawes and seconded by Dakil to authorize City Manager to contract with T.J. Construction for remodeling of VFW Senior Citizen Center, and declare an Emergency.

AYES: Kelley, Pendarvis, Hamilton, Dawes, Dakil, Thompson, Willhoite
NAYS: None

The proposal submitted by T.J.'S Remodeling contains an "Acceptance Of Proposal" (AOP) clause stating:

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to perform the work as specified. Payments will be made as outlined above.

The AOP clause was signed by the former City Manager and dated May 13, 2003.

Article XVIII Section 18.2 of the Anadarko City Charter states:

No contract shall be entered into by the city council until an appropriation has been made therefor, nor in excess of the amount appropriated and all contracts shall be made upon specifications. No contract shall be binding upon the city unless it has been signed by the mayor and countersigned by the city clerk, and the expenses thereof charged to the proper fund, liable for the payment of the same, and whenever the contract charged to any fund equals the appropriations made therefor, no further contract shall be signed by the mayor or clerk, the payment of which would come from such funds.

We asked if a contract was executed in addition to the proposal that appears to serve as both a proposal and contract. We were told that the proposal also served as the contract and that no separate contract was created.

It appears that the proposal/contract was not executed in accordance with the requirements set forth in the Article XVIII Section 18.2 of the Anadarko City Charter.

Article XVIII Section 18.3 of the City Charter provides:

All contracts of whatever character pertaining to public improvements, or maintenance of the public property of said city, involving an outlay of as much as three thousand dollars (\$3,000.00), shall be based upon specifications to be prepared and submitted to and approved by the city council, and after approval by city council advertisements for the proposed work or matter embraced in said contract shall be published in a newspaper of general circulation in said city, and all bids submitted shall be sealed, and shall be opened by the mayor in the presence of a majority of the city council and shall remain on file in the office of the clerk and be open to public inspection for at least forty eight (48) hours before any award of said work shall be made to any competitive bidder. (The dollar limit in this section was changed from five hundred dollars (\$500.00) to one thousand five hundred dollars (\$1,500.00) on August 19, 1985, and to three thousand dollars (\$3,000.00) on July 13, 1993.)

Section 1-7-6 F. of the Anadarko City Code defines an "emergency ordinance" as follows:

F. Emergency Ordinance: An emergency ordinance is an ordinance which, in the judgment of the city council, is necessary for the immediate preservation of peace, health or safety, and which should become effective prior to the time when a regular ordinance would become effective. Every such ordinance shall contain, as part of its title, the words "and declaring an emergency" and, in a separate section (herein called the emergency section), shall declare the emergency. The city council shall vote on the emergency section separately and must adopt the emergency section by a vote of at least three-fourths (3/4) of all the members of said city council. An emergency ordinance shall take effect upon passage unless it specifies a later date (1988 Code § 1-278).

We found no other definition of an emergency in either the City Code or City Charter. Oklahoma State Statutes **61 § 130 E**, under the provisions of the Public Competitive Bidding Act of 1974, defines an emergency as follows:

Emergency as used in this section shall be limited to conditions resulting from a sudden unexpected happening or unforeseen occurrence or condition whereby the public health or safety is endangered.

While the City Code appears to require a distinct and separate action requiring a vote on the "emergency section" we noted that the minutes reflect a single motion and vote approving the City Manager to enter into the contract and declaring an emergency.

Section 1-9-2 B of the Anadarko City Code, under the heading "Competitive Bidding" provides the following:

B. Purchases Allowed Without Bid: The city council may purchase, or authorize the purchase of, the following without giving an opportunity for competitive bidding: (1988 Code § 1-101)

1. Supplies, materials, equipment or contractual services of a nonprofessional nature, the cost of which does not exceed three thousand dollars (\$3,000.00) in a single transaction; (Ord. 1075, 5-22-1995)
2. Supplies, materials, equipment or contractual services which can be furnished only by a single dealer, or which has a uniform price wherever bought;
3. Supplies, materials, equipment or contractual services purchased from another unit of government at a price deemed below that obtainable from private dealers (including war surplus);
4. Contractual services (gas, electricity, telephone service, etc.) purchased from a public utility corporation, commission or other government authority; or
5. Contractual services of a professional nature such as engineering, legal, architectural and medical services, subject to other policies adopted by the city council governing such procurement. (1988 Code § 1-101)

Anadarko City Code, as well as Oklahoma State Statutes, address an "emergency" as a situation involving the preservation of health and safety.

In this instance it appears that the basis for the "emergency" declaration, in the May 2003 City Council meeting, stems from the requirement that the ASCOG funds be expended by the end of the June 30, 2003 funding period.

The City of Anadarko paid the contractor a total of \$58,450.00 for the project.

Recommendation:

We recommend the City follow the guidelines set forth in the City Charter and City Code pertaining to bid requirements and the circumstances whereupon a bid may be waived, as defined by City Code Section 1-9-2 B.

We recommend any reasons for variations from the requirements of the City Charter be adequately documented and reflected in the City Council minutes. We also recommend that a legal opinion be obtained prior to declaring any emergencies in lieu of the bidding requirements as set forth in the City Charter.

We recommend that in instances where the City Council has declared an emergency, that a separate "emergency section" be included on the agenda and that a separate vote be taken on the emergency declaration as required by Anadarko City Code Section 1-7-6 F.

We recommend that contracts executed bear the signature of the Mayor, countersigned by the City Clerk, as required by City Charter Article XVIII Section 18.2.

Concern:

- The City is donating space, rent and utilities without an agreement.
-

Finding:

- The City was unable to provide a lease agreement prior to January 2005.
 - In January 2005 the City executed a lease agreement for use of the facility.
-

This concern stems from the City providing City-owned facilities to the Pregnancy Crisis Testing and Guidance Center of Grady County, Inc (Crisis Center). The facilities are located "in the northwestern corner of the old clinic area".

We were unable to locate a lease agreement for the Pregnancy Testing and Crisis Center prior to January 2005. In addition there was no documentation indicating the Center was paying rent or utilities. By the City not requiring a third party to pay any value for leasing City property, this could be construed as a gift, which is prohibited by **Article X § 15A** of the **Constitution of Oklahoma**, which states:

Except as provided by this section, the credit of the State shall not be given, pledged or loaned to any individual, company, corporation, or association, municipality, or political subdivision of the State, nor shall the State become an owner or stockholder in, nor make donation by gift, subscription to stock, by tax, or otherwise, to any company, association or corporation.

The City is granted the authority to enter into lease agreements by Article II Section 2.2 of the City Charter, which reflects, in part:

...and have power to...lease...any real or personal property...

According to Article III Section 3.1 of the City Charter states, in relevant part:

There is hereby reserved unto the city of Anadarko power to enact and provide ordinances...to promote the public health, public peace, public morals, public safety, trade and commerce, and general welfare of the inhabitants of the said city.

On January 10, 2005 the City executed a lease agreement with the Crisis Center providing for the Crisis Center to pay \$100.00 per month rent and \$30.00 per month for utilities. On June 23, 2005 the City Council addressed additional issues concerning the use of City-owned facilities, fixing rates to be charged.

Recommendation:

No recommendation necessary.

Concern:

- Expenses, such as gift card for the former Mayor, directly violate City Charter.
 - Feeding employees with City funds.
-

Finding:

- A \$100.00 Christmas gift card was purchased for the former Mayor.
 - Expenditures from the "Contingency" account appear to be contrary to City Charter and Constitutional provisions.
-

The City and APWA have established "contingency" accounts. Based on a review of the expenditures from both contingency funds, it appears there are no guidelines or restrictions regarding the expenses that can be paid from these accounts. *The American Heritage Dictionary* defines contingency as:

- a. An event that may occur but that is not likely or intended; a possibility.
- b. A possibility that must be prepared for; a future emergency.

As the City and APWA are required by statute to operate as separate and distinct entities, we will address the expenditures from each account separately.

Expenditures from the City contingency fund:

We were provided a department payroll report for contingency fund expenditures paid by the City general fund. We noted the following:

Check #	Vendor	Description	Amount
16831	Lovetta's Mail & More	Candy Bouquet	\$33.98
16917	Wal-Mart	Candy	\$73.73
24179	Paradise Donuts	Cake Fern Brooks Ded	\$42.30
22265	Rachel Kunze	Cake Tillis Receptio	\$80.00
24427	Wal-Mart	Nuts, Pop, Ice, Mint	\$30.44

Article X § 19 of the Constitution of Oklahoma states:

Every act enacted by the Legislature, and every ordinance and resolution passed by any county, city, town, or municipal board or local legislative body, levying a tax shall specify distinctly the purpose for which said tax is levied, and no tax levied and collected for one purpose shall ever be devoted to another purpose.

It appears **Article X, § 19** of the **Constitution of Oklahoma** only allows expenditures necessary for the continued operation of the City and accordingly we question general fund expenditures of this nature.

Expenditures from the APWA contingency fund:

We were provided a department payroll report for contingency fund expenditures paid by APWA. The expenditures from the APWA contingency fund appear to consist largely of

miscellaneous expenditures for the benefit of City employees, including meals, drinks, flowers, candy, catered lunches and Christmas parties. We cite the following as examples:

Check #	Vendor	Description	Amount
11678	Jimmie Crouch	Cake	\$30.00
11674	Katies Katering	Christmas Dinners / CA	\$712.50
11718	Wal-Mart	Gift Card, Table Ware	\$66.14
11718	Wal-Mart	Christmas Decorations	\$55.36
12947	K I G Que	Cater Christmas Party	\$1,050.00
20232	Wal-Mart	Cookies, Cups, Cake	\$20.33
19954	Wal-Mart	Pop, Water	\$56.56
22121	Richie Rodriguez	Christmas Party Ente	\$250.00
21003	Katies Katering	Lunch Riffel	\$880.00
22187	Katies Katering	03 Christmas Party	\$937.50

Additionally we noted sixteen (16) expenditures, totaling \$654.61, for plants and flowers for what appear to be City employees. On December 2, 2003, we noted an expenditure of \$1,087.50 for catering services for the purpose of "meals to run 2003".

A \$100.00 Christmas gift card was purchased for the former Mayor on December 12, 2003 from the "Contingency" account within the APWA. The accepting of gifts appears to be precluded by Article XVII Section 18.7 of the City Charter, which provides:

Any officer of said city who shall, while in office, accept any donation or gratuity in money or other valuable thing, either directly or indirectly from any person or corporation dealing with the city, or any subordinate or employee or from any candidate or applicant for any position as employee or subordinate under him shall forfeit his office and be forever debarred and disqualified from holding any position in the service of the city.

Although the Oklahoma Constitution and City Charter do not apply to public trusts, expenditures of this nature appear to be contrary to the purposes of the APWA as set forth in the Declaration of Trust, which provides, in relevant part:

(d) To provide funds for the cost of financing, acquiring, constructing equipping, maintaining, repairing and operating any such aforesaid services or facilities, and all properties...needful for executing and fulfilling the Trust purposes...and all other charges, costs and expenses necessarily incurred in connection therewith...

(e) To expend all funds coming into the hands of the Trustees, as revenue or otherwise, in the payment of the aforesaid costs and expenses...

Recommendation:

We recommend expenditures that are not necessary for the operation of the City and APWA be discontinued.

Concern:

- **Investment funds fell below a value specified by ordinance.**
-

Findings:

- **The Ordinance does not specify a threshold value.**
 - **We were unable to confirm the amount of the initial investment.**
-

The focus of the concern stems from a 1982 investment of funds from an oil and gas lease bonus in the amount of \$500,000.00 and that the City passed an ordinance stating that this fund balance shall never fall below the \$500,000.00 amount.

In June 1982 the City passed Ordinance No. 874 addressing the investment of the oil and gas bonus funds. The Ordinance specified the following conditions:

The Oil and Gas lease bonus money in the sum of \$500,000.00 shall be placed on the highest best available legal interest.

The interest from said deposit shall be placed in a general fund of the City to be spent by the City Council.

It shall take a special election and a majority of the qualified electors of the city to change the above sum from this interest bearing account to another form or use by the City Council.

We found no language in the investment ordinance stating that the value of the investment, an amount we were unable to confirm as the initial investment amount, shall ever be allowed to fall below the \$500,000.00 amount.

A secondary and related concern was that the funds were to have never been placed in an investment that involved risk. Again we found no such language in the investment Ordinance.

We were provided a statement reflecting the current value of the investment, as of April 28, 2006, as \$517,476.08.

Recommendation:

No recommendation necessary.

Concern:

- The City expended in excess of \$3,000 on a project without taking bids.
-

Findings:

- The City paid \$14,600.86 to a single vendor for supplies for a golf course project.
-

The concern, as related to us, surrounded an upgrade project at the Anadarko golf course, specifically concerning a single payment to a vendor that exceeded the \$3,000.00 amount requiring that competitive bidding be performed.

Anadarko City Charter **Article XVIII § 18.3**, states:

All contracts of whatever character pertaining to public improvements, or maintenance of the public property of said city, involving an outlay of as much as three thousand dollars (\$3,000.00), shall be based upon specifications to be prepared and submitted to and approved by the city council, and after approval by city council advertisements for the proposed work or matter embraced in said contract shall be published in a newspaper of general circulation in said city, and all bids submitted shall be sealed, and shall be opened by the mayor in the presence of a majority of the city council and shall remain on file in the office of the clerk and be open to public inspection for at least forty eight (48) hours before any award of said work shall be made to any competitive bidder. (The dollar limit in this section was changed from five hundred dollars (\$500.00) to one thousand five hundred dollars (\$1,500.00) on August 19, 1985, and to three thousand dollars (\$3,000.00) on July 13, 1993.)

In December 2003 the City paid \$14,600.86 to Water Products, Inc. for supplies and materials invoiced on four (4) separate invoices. One invoice was dated November 17, 2003; the remaining invoices were dated December 1, 2003.

We interviewed a City employee who was involved in the upgrade project and showed him the invoices provided to us. The employee affirmed that the items listed on the invoices were supplies used on a single project for the golf course.

The City was unable to provide documentation reflecting that bids had been taken for the supplies and materials purchased for this golf course project.

Recommendation:

The City should follow the bidding requirements specified in the City Charter.

* * * *

Throughout this report there are numerous references to state statutes and legal authorities, which appear to be potentially relevant to issues raised and reviewed by this Office. The State Auditor and Inspector has no jurisdiction, authority, purpose or intent by the issuance of this report to determine the guilt, innocence, culpability or liability, if any, of any person or entity for any act, omission, or transaction reviewed and such determinations are within the exclusive jurisdiction of regulatory law enforcement, and judicial authorities designated by law.

The inclusion of cites to specific statutes or other authorities within this report does not, and is not intended to, constitute a determination or finding by the State Auditor and Inspector that any of the entities, agencies or individuals named in this report acting on behalf of any of the agencies or entities named in this report have violated any statutory requirements or prohibition imposed by law. All cites and/or references to specific legal provisions are included within this report for the sole purpose of enabling the Administration and other interested parties to review and consider the cited provisions, independently ascertain whether or not the entities policies, procedures or practices should be modified or discontinued, and to independently evaluate whether or not the recommendations made by this Office should be implemented.

CITY OF ANADARKO / APWA / AEDA
SPECIAL AUDIT
JULY 1, 2000 THROUGH JUNE 30, 2005

Attachment A

Date	Invoice	Payment	Balance	Date	Invoice	Payment	Balance
7/12/2000	\$340,373.72		\$340,373.72	1/10/2002	\$184,251.20		\$855,847.63
7/28/2000		\$340,373.72	\$0.00	2/11/2002	\$188,242.73		\$1,044,090.36
8/10/2000	\$339,594.28		\$339,594.28	2/12/2002		\$150,000.00	\$894,090.36
8/25/2000		\$339,594.28	\$0.00	2/25/2002		\$179,703.61	\$714,386.75
9/12/2000	\$386,175.39		\$386,175.39	2/25/2002		\$8,906.73	\$705,480.02
9/28/2000		\$386,175.39	\$0.00	2/25/2002		\$11,067.99	\$694,412.03
10/11/2000	\$340,497.69		\$340,497.69	3/12/2002	\$177,900.84		\$872,312.87
10/26/2000		\$340,497.69	\$0.00	3/15/2002	\$18,753.60		\$891,066.47
11/10/2000	\$269,149.40		\$269,149.40	3/29/2002		\$165,585.24	\$725,481.23
11/27/2000		\$269,149.40	\$0.00	4/11/2002	\$191,300.83		\$916,782.06
12/8/2000	\$249,405.13		\$249,405.13	4/22/2002	\$9,817.94		\$926,600.00
12/27/2000		\$249,405.13	\$0.00	4/29/2002		\$202,395.57	\$724,204.43
1/12/2001	\$223,340.39		\$223,340.39	5/13/2002	\$182,942.69		\$907,147.12
1/26/2001		\$223,340.39	\$0.00	6/7/2002		\$138,188.40	\$768,958.72
2/9/2001	\$268,560.68		\$268,560.68	6/7/2002		\$18,753.60	\$750,205.12
3/9/2001	\$215,045.04		\$483,605.72	6/7/2002		\$9,817.94	\$740,387.18
3/9/2001		\$268,560.68	\$215,045.04	6/13/2002	\$221,727.14		\$962,114.32
3/30/2001	\$1,052.72		\$216,097.76	6/21/2002		\$94,121.37	\$867,992.95
4/12/2001	\$214,300.15		\$430,397.91	7/3/2002		\$94,121.37	\$773,871.58
4/17/2001		\$215,045.04	\$215,352.87	7/11/2002	\$30,624.49		\$804,496.07
4/17/2001		\$1,052.72	\$214,300.15	7/12/2002	\$226,984.94		\$1,031,481.01
4/27/2001	\$2,107.40		\$216,407.55	8/9/2002	\$268,596.68		\$1,300,077.69
5/11/2001	\$203,369.22		\$419,776.77	8/9/2002		\$177,900.84	\$1,122,176.85
5/18/2001		\$214,300.15	\$205,476.62	8/9/2002		\$191,300.83	\$930,876.02
6/11/2001	\$272,216.85		\$477,693.47	8/9/2002		\$182,942.69	\$747,933.33
6/28/2001	\$2,100.20		\$479,793.67	8/23/2002	\$28,619.59		\$776,552.92
6/28/2001		\$2,107.40	\$477,686.27	8/29/2002		\$221,727.14	\$554,825.78
7/12/2001	\$244,310.78		\$721,997.05	9/11/2002	\$303,466.66		\$858,292.44
7/12/2001		\$203,369.22	\$518,627.83	9/20/2002		\$226,984.94	\$631,307.50
8/1/2001	\$4,384.60		\$523,012.43	9/27/2002	\$12,964.62		\$644,272.12
8/10/2001	\$370,952.49		\$893,964.92	10/1/2002		\$100,000.00	\$544,272.12
8/15/2001		\$272,216.85	\$621,748.07	10/10/2002	\$256,986.91		\$801,259.03
8/31/2001	\$6,402.72		\$628,150.79	10/25/2002		\$30,624.49	\$770,634.54
9/12/2001	\$426,181.55		\$1,054,332.34	10/25/2002		\$65,564.37	\$705,070.17
9/14/2001		\$2,100.20	\$1,052,232.14	10/25/2002		\$256,986.91	\$448,083.26
9/14/2001		\$244,310.78	\$807,921.36	11/1/2002	\$11,735.06		\$459,818.32
9/14/2001		\$4,384.60	\$803,536.76	11/8/2002	\$197,073.86		\$656,892.18
9/27/2001	\$5,865.79		\$809,402.55	11/22/2002		\$39,338.61	\$617,553.57
10/12/2001	\$329,703.61		\$1,139,106.16	11/22/2002		\$28,619.59	\$588,933.98
10/16/2001		\$370,952.40	\$768,153.76	11/22/2002		\$11,735.06	\$577,198.92
10/16/2001		\$6,402.72	\$761,751.04	11/22/2002		\$197,073.86	\$380,125.06
10/31/2001	\$8,906.73		\$770,657.77	12/2/2002	\$5,802.05		\$385,927.11
11/9/2001	\$165,585.24		\$936,243.01	12/11/2002	\$198,599.00		\$584,526.11
11/20/2001		\$426,181.55	\$510,061.46	12/20/2002		\$52,451.48	\$532,074.63
11/20/2001		\$5,865.79	\$504,195.67	12/20/2002		\$12,964.62	\$519,110.01
11/29/2001	\$11,067.99		\$515,263.66	12/20/2002		\$5,802.05	\$513,307.96
12/12/2001	\$156,332.77		\$671,596.43	12/30/2002		\$198,599.00	\$314,708.96

CITY OF ANADARKO / APWA / AEDA
SPECIAL AUDIT
JULY 1, 2000 THROUGH JUNE 30, 2005

Attachment B

Date	Invoice	Payment	Balance	Date	Invoice	Payment	Balance
1/2/2003	\$5,268.75		\$319,977.71	9/9/2003		\$5,036.00	\$381,914.14
1/10/2003	\$199,295.00		\$519,272.71	9/9/2003		\$4,395.18	\$377,518.96
1/22/2003		\$11,242.22	\$508,030.49	9/11/2003	\$371,915.72		\$749,434.68
1/22/2003		\$54,322.13	\$453,708.36	9/12/2003		\$375,240.62	\$374,194.06
1/22/2003		\$5,268.75	\$448,439.61	9/15/2003	\$2,758.05		\$376,952.11
2/4/2003	\$4,459.16		\$452,898.77	9/26/2003		\$2,278.26	\$374,673.85
2/10/2003		\$199,295.00	\$253,603.77	9/26/2003		\$2,758.05	\$371,915.80
2/12/2003	\$210,784.54		\$464,388.31	10/10/2003	\$306,825.81		\$678,741.61
2/25/2003	\$1,269.45		\$465,657.76	10/14/2003		\$371,915.72	\$306,825.89
2/25/2003		\$65,564.35	\$400,093.41	10/15/2003	\$2,733.60		\$309,559.49
2/25/2003		\$4,459.16	\$395,634.25	10/28/2003		\$2,733.60	\$306,825.89
2/28/2003	\$3,289.76		\$398,924.01	11/11/2003	\$232,241.40		\$539,067.29
3/5/2003		\$1,269.45	\$397,654.56	11/19/2003	\$3,307.48		\$542,374.77
3/11/2003	\$222,776.89		\$620,431.45	11/19/2003		\$306,825.81	\$235,548.96
3/12/2003		\$210,784.54	\$409,646.91	11/25/2003		\$3,307.48	\$232,241.48
3/25/2003		\$52,451.48	\$357,195.43	12/11/2003	\$224,214.74		\$456,456.22
3/25/2003		\$3,289.76	\$353,905.67	12/15/2003		\$232,241.40	\$224,214.82
3/31/2003	\$2,608.67		\$356,514.34	12/16/2003	\$1,934.60		\$226,149.42
3/31/2003	\$1,239.36		\$357,753.70	12/31/2003		\$1,934.60	\$224,214.82
4/11/2003	\$215,352.43		\$573,106.13	1/9/2004	\$272,947.05		\$497,161.87
4/14/2003		\$222,776.89	\$350,329.24	1/23/2004		\$224,214.74	\$272,947.13
4/23/2003		\$52,451.48	\$297,877.76	1/27/2004	\$2,856.62		\$275,803.75
4/24/2003	\$1,855.72		\$299,733.48	2/11/2004	\$240,540.39		\$516,344.14
5/2/2003	\$1,721.98		\$301,455.46	2/17/2004		\$2,856.62	\$513,487.52
5/8/2003		\$2,608.67	\$298,846.79	3/11/2004	\$239,695.70		\$753,183.22
5/8/2003		\$1,239.36	\$297,607.43	3/22/2004		\$272,947.05	\$480,236.17
5/9/2003	\$205,549.27		\$503,156.70	3/31/2004	\$7,088.22		\$487,324.39
5/14/2003		\$215,352.43	\$287,804.27	4/9/2004	\$230,125.12		\$717,449.51
5/14/2003		\$1,855.72	\$285,948.55	4/30/2004		\$7,088.22	\$710,361.29
5/19/2003	\$1,688.32		\$287,636.87	5/11/2004	\$278,733.21		\$989,094.50
5/28/2003		\$39,338.61	\$248,298.26	5/21/2004		\$240,540.39	\$748,554.11
5/28/2003		\$1,721.98	\$246,576.28	5/25/2004	\$9,782.38		\$758,336.49
5/29/2003		\$1,688.32	\$244,887.96	6/1/2004		\$9,782.38	\$748,554.11
6/4/2003	\$1,118.00		\$246,005.96	6/11/2004	\$289,343.10		\$1,037,897.21
6/11/2003	\$263,817.66		\$509,823.62	7/7/2004	\$23,556.35		\$1,061,453.56
6/25/2003		\$39,338.61	\$470,485.01	7/9/2004	\$265,573.99		\$1,327,027.55
6/25/2003		\$1,118.00	\$469,367.01	7/21/2004		\$289,343.10	\$1,037,684.45
6/26/2003	\$462.62		\$469,829.63	7/30/2004		\$35,136.67	\$1,002,547.78
7/10/2003	\$258,308.82		\$728,138.45	8/3/2004	\$14,562.06		\$1,017,109.84
7/16/2003		\$205,549.27	\$522,589.18	8/6/2004		\$265,573.99	\$751,535.85
7/16/2003		\$462.62	\$522,126.56	8/11/2004	\$285,136.61		\$1,036,672.46
7/21/2003	\$5,036.00		\$527,162.56	8/11/2004		\$23,556.35	\$1,013,116.11
7/31/2003		\$263,817.66	\$263,344.90	8/27/2004		\$35,136.37	\$977,979.74
8/5/2003	\$4,395.18		\$267,740.08	8/27/2004		\$285,136.61	\$692,843.13
8/8/2003	\$375,240.62		\$642,980.70	8/31/2004	\$11,261.66		\$704,104.79
8/15/2003		\$258,308.82	\$384,671.88	9/1/2004		\$14,562.06	\$689,542.73
8/21/2003	\$2,278.26		\$386,950.14	9/10/2004	\$292,877.39		\$982,420.12

CITY OF ANADARKO / APWA / AEDA
SPECIAL AUDIT
JULY 1, 2000 THROUGH JUNE 30, 2005

Attachment C

Date	Invoice	Payment	Balance
9/23/2004		\$35,136.67	\$947,283.45
9/23/2004		\$11,261.66	\$936,021.79
9/23/2004		\$292,877.39	\$643,144.40
9/30/2004	\$9,115.45		\$652,259.85
10/8/2004	\$259,391.97		\$911,651.82
10/22/2004		\$259,391.07	\$652,260.75
11/2/2004	\$9,006.75		\$661,267.50
11/11/2004	\$212,958.13		\$874,225.63
11/19/2004		\$212,958.13	\$661,267.50
12/1/2004	\$8,410.74		\$669,678.24
12/10/2004	\$204,364.47		\$874,042.71
12/30/2004		\$204,364.47	\$669,678.24
1/3/2005	\$9,969.65		\$679,647.89
1/11/2005	\$201,644.73		\$881,292.62
1/31/2005	\$10,065.79		\$891,358.41
1/31/2005		\$9,115.45	\$882,242.96
1/31/2005		\$201,644.73	\$680,598.23
2/11/2005	\$215,586.44		\$896,184.67
2/14/2005		\$9,006.75	\$887,177.92
2/14/2005		\$8,410.74	\$878,767.18
2/14/2005		\$9,969.65	\$868,797.53
2/28/2005		\$10,065.79	\$858,731.74
2/28/2005		\$215,586.44	\$643,145.30
3/1/2005	\$8,823.95		\$651,969.25
3/11/2005	\$235,958.99		\$887,928.24
3/24/2005		\$134,285.99	\$753,642.25
3/24/2005		\$230,125.12	\$523,517.13
3/24/2005		\$278,733.21	\$244,783.92
3/24/2005		\$0.90	\$244,783.02
3/24/2005		\$8,823.95	\$235,959.07
3/24/2005		\$235,958.99	\$0.08
3/25/2005	\$6,933.11		\$6,933.19
4/8/2005	\$204,566.28		\$211,499.47
4/14/2005		\$6,933.11	\$204,566.36
4/28/2005		\$204,566.28	\$0.08
5/11/2005	\$191,023.94		\$191,024.02
6/3/2005		\$191,023.94	\$0.08
6/10/2005	\$296,907.52		\$296,907.60
6/14/2005	\$280.80		\$297,188.40
6/29/2005		\$296,907.52	\$280.88
6/29/2005		\$280.80	\$0.08
	\$15,456,209.78	\$15,456,209.70	

Attachment D

Check No.	Date	Amount		Check No.	Date	Amount
10857	04/05/01	\$1,052.72		20349	06/16/03	\$1,118.00
11100	06/15/01	\$2,107.40		20557	07/02/03	\$462.62
11240	08/01/01	\$2,100.20		20782	07/30/03	\$5,036.00
11284	08/15/01	\$4,384.60		21056	08/15/03	\$4,395.18
11419	10/01/01	\$6,402.72		21092	08/27/03	\$2,278.26
11462	10/15/01	\$5,865.79		21400	09/24/03	\$2,758.05
11572	11/15/01	\$8,906.73		21726	10/27/03	\$2,733.60
11669	12/17/01	\$11,067.99		22007	11/24/03	\$3,307.48
12037	04/03/02	\$18,753.60		22302	12/29/03	\$1,934.60
12150	05/09/02	\$9,817.94		22742	02/05/04	\$2,856.62
12640	09/30/02	\$30,624.49		23501	04/28/04	\$7,088.22
12681	10/11/02	\$28,619.59		23876	05/26/04	\$9,782.38
12682	10/11/02	\$12,964.62		24649	08/02/04	\$23,556.35
12782	11/22/02	\$11,735.06		24826	08/30/04	\$14,562.06
12897	12/18/02	\$5,802.05		25048	09/23/04	\$11,261.66
12953	01/09/03	\$5,268.75		25971	01/26/05	\$9,115.45
13087	02/14/03	\$4,459.16		26104	02/09/05	\$9,006.75
19214	02/26/03	\$1,269.45		26105	02/09/05	\$8,410.74
19470	03/17/03	\$3,289.76		26106	02/09/05	\$9,969.65
19818	04/24/03	\$2,608.67		26248	02/24/05	\$10,065.79
19819	04/24/03	\$1,239.36		***	03/24/05	\$8,823.95
19952	05/01/03	\$1,855.72		26594	04/08/05	\$6,933.11
20071	05/15/03	\$1,721.98		27178	06/27/05	\$280.80
20115	05/27/03	\$1,688.32				\$339,343.99

***Paid from proceeds of 3/25/2005 promissory note.