



Special Audit

Bowring Elementary School District No. 57C007

Osage County

July 1, 2004 through June 30, 2005



Office of the Oklahoma State Auditor and Inspector
Jeff A. McMahan, CFE

BOWRING ELEMENTARY SCHOOL DISTRICT No. (57C007)

OSAGE COUNTY

SPECIAL AUDIT REPORT

JULY 1, 2004 THROUGH JUNE 30, 2005



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

August 22, 2007

Honorable Larry Stuart
District Attorney, District No. 10
P.O. Box 147
Pawhuska, Oklahoma 74056

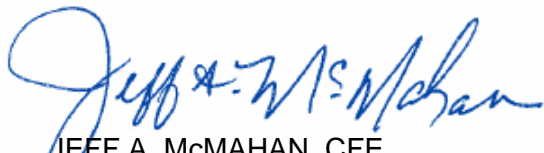
Transmitted herewith is the Special Audit Report of the Bowring Elementary School District No. 57C007, Osage County, Oklahoma. We performed our special audit in accordance with the requirements of **74 O.S.2001, § 212(H)** for the period July 1, 2004 through June 30, 2005.

A report of this type tends to be critical in nature. Failure to report commendable features in the accounting and operating procedures of the entity should not be interpreted to mean that they do not exist.

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,



JEFF A. McMAHAN, CFE
State Auditor and Inspector

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BOARD OF EDUCATION

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SUPERINTENDENT

Nicole Hinkle



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

Board of Education
Bowring Elementary School District No. 57C007
Highway Contract 73, Box 570
Bowring, Oklahoma 74009

Dear Board Members:

Pursuant to the District Attorney's request and in accordance with the requirements of **74 O.S. 2001, § 212(H)**, we performed a special audit with respect to the Bowring Elementary School District No. 57C007, Osage County, for the period July 1, 2004 through June 30, 2005.

The objectives of our special audit primarily included but were not limited to, the areas noted in the District Attorney's request. Our findings and recommendations related to these procedures 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 Bowring Elementary School District No. 57C007 for the period July 1, 2004 through June 30, 2005. 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 do not extend to any financial statements of the District taken as a whole.

This report is intended solely for the information and use of the District Attorney, the Bowring Elementary School District No. 57C007 and its Administration 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. 2001, § 24A.1 et seq.)**, and shall be open to any person for inspection and copying.

Sincerely,

JEFF A. McMAHAN, CFE
State Auditor and Inspector

May 4, 2007

INTRODUCTION

The Elementary School District No. 57C007, (Bowring Public School) Osage County, Oklahoma is an integral part of the Oklahoma State System of Public School Education as described in **70 O.S. § 106**, the Oklahoma School Code. The Board of Education of the Bowring Elementary School District is responsible for the supervision, management and control of the School as provided by **70 O.S. § 5-117**. Both the Board of Education and the Bowring Elementary School District are subject to the provisions of the Oklahoma School Code.

The Bowring Elementary School District is audited annually by private independent auditors; an audit report for the fiscal year ending June 30, 2005 was available for our review. Also, the School District's Board of Education prepares an annual financial statement, presenting the financial condition of the School District as of the previous fiscal year, in accordance with the requirements of **68 O.S. 2001, § 3002**. The School District made available to us such accounting and financial records as we considered necessary. The financial information presented in this report was prepared from the School District's records.

Pursuant to the District Attorney's request, the State Auditor and Inspector conducted an audit of the Bowring Elementary School District, primarily those records relating to the concerns in the request. The results of the audit are in the following report.

BOARD OF EDUCATION FIDUCIARY RESPONSIBILITY

The Board of Education for the Bowring Elementary School District has an obligation to act in the best interest of the District as a whole. This fiduciary responsibility requires that all funds belonging to the District be handled with scrupulous good faith and candor. Such a relationship requires that no individual shall take personal advantage of the trust place in him or her. When the Board of Education accepts responsibility to act in a fiduciary relationship, the law forbids them from acting in any manner adverse or contrary to the interest of the District.

Further, the Clerk/Treasurer has a fiduciary responsibility to perform all statutory duties in maintaining accurate, complete, and reliable records for the District.

CONCERNS, FINDINGS AND RECOMMENDATIONS

CONCERN: *Possible violations of purchasing procedures.*

FINDINGS: An examination of the District's accounting records indicated the school uses the accounting and financial reporting system prescribed by the State Department of Education. The purchasing system operates by having all purchase requests approved by a purchasing agent – at this school that is the superintendent – and the purchase is then coded to the proper expenditure category as determined by the State accounting system codes. After the purchase is completed, the receipt or invoice is attached to the purchase order (P.O.) prepared by the purchasing agent. At the next school Board meeting, the P.O.'s are examined by the Board and are approved or rejected. Up to the point of approval or rejection by the Board, we confirmed the steps taken by the school in preparing P.O.'s for purchases of goods and services were followed.

RECOMMENDATION: No recommendation necessary.

CONCERN: *Potential misappropriation, conversion or embezzlement of funds.*

FINDINGS: The former maintenance man was employed at Bowring School during the FY's 2005 and 2006 (July 1, 2004 through June 30, 2006). Our review of purchases for these two fiscal years resulted in our finding seven (7) purchases which appear questionable. These are discussed in the following paragraphs.

- The former maintenance man purchased two ATVs. The school was invoiced for the two purchases of \$2,000.00 and \$1,450.00. However, the school did not pay for them. His employment contract specifically states "Employee agrees not to incur any expense against the school district without first having obtained legal authority to incur same..." The former maintenance man's resignation was accepted by the Board in their meeting on April 16, 2006. The unauthorized ATV purchase occurred in October 2005.
- On February 17, 2005, two (2) Firestone tires, size 195/70R14, were purchased from a tire store in Bartlesville, Oklahoma, together with balancing and other tire service charges. The size of the tires would not have fit any of the vehicles owned by the school District. This purchase totaled \$223.64 and was paid by school warrant no. 273. There was no customer signature on the vendor invoice but the vehicle serial number on the invoice was the same as the vehicle for which tires were later purchased by the son of the former maintenance man.
- On August 28, 2005, auto parts were purchased which included an AM/FM/CD radio. Apparently this purchase of non-approved merchandise was detected by the school District and the radio was returned or was paid for by someone else. The radio would have cost the school District \$59.99 if the unauthorized purchase had not been discovered.
- On September 20, 2005, a purchase of automobile front end parts for a 1986 Audi were purchased with school warrant no. 158. We could not determine that the school District ever owned an Audi. The amount of this purchase was \$200.00.

- On December 06, 2005, in conjunction with other parts, a Sensa-Trac was purchased for a 1998 Oldsmobile Cutlass. We could not determine that the school District ever owned such a vehicle. This purchase was paid for by the school District with warrant no. 264 in the amount of \$115.98.

In total we noted almost \$600 in questioned costs. Approximately \$540 was paid by the school District. When we attempted to determine if these were possible repairs on school District vehicles, we were advised that the former maintenance man also did mechanical work on his own time and may have been buying repair parts for customers' vehicles.

As noted earlier, we found at least two instances when the former maintenance man or his son attempted to purchase tires for their own vehicles but the school District purchasing agent rejected the purchase. The school was not billed for the tires even though they were purchased with the school District's discount and sales tax exemption.

On April 11, 2005, the former maintenance man purchased four (4) tires for a "maroon" Ford Mustang in the amount of \$367.00 to be billed to the school District. The purchasing agent at the school rejected the purchase and did not issue a P.O. They also advised the tire company that this was an unauthorized purchase and the school District would not pay. The tire company manager informed us they contacted the former maintenance man after the school notified them the charge was not authorized by the school, and the purchaser had agreed to pay for the tires. However, when the manager checked the status of the sale, he advised us the account had been charged off.

In the second instance, the son of the former maintenance man had attempted to purchase a set of four (4) tires for the non-school vehicle, but this time, the school District notified the vendor this was an unauthorized purchase and the school was not responsible for payment. The vendor told us that the customer stated he would pay for the tires himself even though he felt the school District should pay because "he used his personal vehicle on school business." The vendor said that when they re-wrote the invoice, they added sales tax to the sale. The customer demanded the tax be taken off and the vendor complied.

It appears the above questioned costs resulted from a failure to follow established purchasing procedures. Strict adherence to purchasing procedures would have prevented unauthorized purchases from occurring. Such procedures would require the purchasing agent to verify purchase requisitions to invoice/statement items, require explanations, descriptions, and purpose of unusual purchases.

The purchase of items for personal use with school monies or under the color of the school may be a violation of **21 O.S. Supp. 2002, §§§ 341, 358 and 1451** which state, in pertinent part, respectively:

§ 341 – Every public officer of the state ... and every deputy or clerk of any such officer and every other person receiving any money or other thing of value on behalf of or for account of this state or any department of the government of this state ... or the people thereof, are directly or indirectly interested, who either:

First: Receives, directly or indirectly, any interest, profit or perquisites, arising from the use or loan of public funds in the officer's or person's hands or money to be raised through an agency for state, city, town, district, or county purposes; or

Second: Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to any moneys so received by him, on behalf of the state ... or the people thereof, or in which they are interested; or

Third: Fraudulently alters, falsifies, cancels, destroys or obliterates any such account, shall, upon conviction, thereof, be deemed guilty of a felony and shall be punished by a fine of not to exceed Five Hundred Dollars (\$500.00), and by imprisonment in the State Penitentiary for a term of not less than one (1) year nor more than twenty (20) years[.]

§ 358 – A. It shall be unlawful for any person ... to make, present, or cause to be presented to any employee or officer of the State of Oklahoma, or to any department or agency thereof, any false, fictitious or fraudulent claim for payment of public funds upon or against the State of Oklahoma, or any department, or agency thereof, knowing such claim to be false, fictitious or fraudulent. A violation of this subsection shall be punished as provided in subsection A of Section 359 of this title.

§ 1451 – A. Embezzlement is the fraudulent appropriation of property of any person or legal entity, legally obtained, to any use or purpose not intended or authorized by its owner, or the secretion of the property with the fraudulent intent to appropriate it to such use or purpose...

* * *

5. Where any person diverts any money appropriated by law from the purpose and object of the appropriation[.]

Embezzlement does not require a distinct act of taking, but only a fraudulent appropriation, conversion or use of property.

* * *

C. Any county or state officer, deputy or employee of such officer, who shall divert any money appropriated by law from the purpose and object of the appropriation, shall, upon conviction, be guilty of a felony punishable by imprisonment in the State Penitentiary for a term not less than one (1) year nor more than ten (10) years, and a fine equal to triple the amount of money so embezzled and ordered to pay restitution to the victim[.]

Article X, § 15 of the Constitution of Oklahoma states in pertinent part:

Except as provided by this section, the credit of the State shall not be given, pledged, or loaned to any individual ... or political subdivision of the State[.]

68 O.S. § 1350 shall be known as the “**Oklahoma Sales Tax Code**” and requires the payment of sales tax.

Failure to pay sales tax on the purchases may be a violation of the **68 O.S. § 1361** which states:

Consumer to pay tax—Vendor to collect tax—Penalties for failure to collect.

A. Except as otherwise provided by subsection C of this section, the tax levied by Section 1350 et seq. of this title shall be paid by the consumer or user to the vendor[.]

* * *

E. A consumer or user who willfully or intentionally fails, neglects or refuses to pay the full amount of tax levied by Section 1350 et seq. of this title or willfully or intentionally uses a sales tax permit or direct payment permit which is invalid, expired, revoked, canceled or otherwise limited to a specific line of business or will fully or intentionally issues a resale certificate to a vendor to evade the tax levied by Section 1350 et seq. of this title shall be subject to a penalty in the amount of five Hundred Dollars (\$500.00) per reporting period upon determination thereof, which shall be apportioned as provided for the apportionment of the tax.

68 O.S. § 1356 provides for governmental and non-profit entities exemptions and states in pertinent part:

There are hereby specifically exempted from the tax levied by Section 1350 et seq. of this title:

* * *

10. Sale of tangible personal property or services to any ... public school district ... or to any person with whom any of the ... subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchase are for any of the ... subdivisions or agencies of this state or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both[.]

11. ...Any person ... making purchases on behalf of any institution, agency or subdivision in this state, shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchases, and violation of this paragraph shall be a misdemeanor as set forth in paragraph 10 of this section[.]

RECOMMENDATION: We recommend the proper authorities review this finding to determine if further action is necessary.

CONCERN: *Possible irregularities in the management of the school-owned teacherages.*

FINDING: The school District owns nine (9) residential properties (teacherages) which are rented to school employees and private citizens. Rental rates are \$100.00 per month for houses and \$150.00 for mobile homes. One of the mobile homes is uninhabitable and the school plans on selling or disposing of this mobile home. All the residential properties are on land owned by the school District.

We were advised the school District originally constructed the five (5) teacherage houses in the early 1950's because of the lack of rental housing in the area for teachers and other school employees. The mobile homes were purchased during the period of the early 1990's up until 2005. We were informed by a school official that the mobile homes were purchased because of the lack of rental properties in the school District for parents who wished to enroll their children in the Bowring school system. The following paragraphs detail the Bowring Public School Teacherage Policy as approved by the school Board:

"Bowring Schools recognizes that due to its rural setting, housing for certified teachers and support personnel is very limited. Therefore, the school has provided teacherages since 1951.

The following guidelines are in effect for the teacherages:

1. Certified personnel will have first choice on vacancy.
2. Full-Time personnel will have second choice on vacancy.
3. Part-time personnel will have third choice on vacancy.
4. Any vacancy not filled by the above will be handled on a case-by case basis.
5. Priority shall be given to families with need. It is the intent of the district to assist families with children by providing housing to those families that need housing while their children attend school at Bowring.

6. The superintendent shall have the authority to select appropriate tenants and the authority to enter into any and all rental agreements.
7. Requests for teacherages will be maintained in the office and must be updated with the school secretary every 60 days."

We obtained the Tax Year 2007 Real Property Assessment Roll for the school-owned property from the Osage County Assessor's Office and verified that all properties are reflected on County records as school-owned and tax exempt. However, it appears the ownership documents provided by the school District for the mobile homes does not reflect true school ownership.

The following was noted regarding the teacherages:

- One of the mobile homes is not in the school District's name. The ownership appears to be a former superintendent as shown in both the buyer and seller's information blocks on the Oklahoma Manufactured Home Certificate. The only reference to the school is that the school property is where the mobile home is to be moved. The school's general fund purchased the mobile home from the former maintenance man for \$4,500.00 in March 2005.
- Another mobile home has a notarized Bill of Sale signed by the sellers and a signed title transferring ownership, but the new owner is not noted on the title. The mobile home was purchased with school District building funds. The mobile home has not been occupied by school staff.
- The remaining two (2) mobile homes have an Oklahoma Manufactured Home Certificate showing buyer and seller as Bowring School District but do not have a title. We were unable to determine if these documents are adequate to reflect ownership even though the Osage County Treasurer has signed the documents and has issued a tax receipt for the mobile homes.

We obtained a listing of the current tenants and noted that eight (8) of the teacherages are currently occupied. Three (3) of the housing units are rented to school District employees. One of the houses is rented to a former employee of the school. One of the houses and three of the occupied mobile homes are rented to non-school affiliated persons.

We obtained a schedule of rentals paid since January through April 2007, and based on this schedule, it appears that two (2) tenants are current with their rent. Total rents collected since January are \$1,524.00 based on the records maintained by the maintenance man who receipts rental payments. No payments are noted for the mobile home rentals and the house rentals are approximately \$500.00 in arrears.

We reviewed Oklahoma School Law and we noted an Attorney General's Opinion dated December 7, 1957, which approved the use of building funds for the building of a teacherage. We did note that **70 O.S. § 5-117** authorizes the school Board to purchase teacherages.

We reviewed State School Laws regarding school district-owned teacherages and did not find any law that specifically dealt with ownership and usage of teacherages. There was no definition given for what comprises a teacherage or whether the teacherages use is restricted to school employees. We did note the school District has the necessary documents one would expect from any rental agency, such as a rental application that must be completed by the potential renter; a lease agreement; rules and regulations relating to occupancy of the rental; and a notice of past due payment of rent if necessary.

RECOMMENDATION: We recommend the Board determine if it is proper for the school District to keep and maintain rental properties in excess of their needs for housing for teachers and staff and whether the rents charged are adequate to properly maintain the properties.

* * *

Throughout this report there are numerous references to state statutes and legal authorities which appear to be potentially relevant to issues raised by the District Attorney 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 the District or any of the individuals named in this report or acting on behalf of the District have violated any statutory requirement 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 District's 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.



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