

SPECIAL INVESTIGATIVE REPORT

CITY OF NEW CORDELL

July 1, 2007 through the Present



*Independently serving the citizens of
Oklahoma by promoting the
accountability and fiscal integrity of
governmental funds.*



Oklahoma State
Auditor & Inspector
Gary A. Jones, CPA, CFE

CITY OF NEW CORDELL
SPECIAL INVESTIGATIVE REPORT
JULY 1, 2007 THROUGH PRESENT

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Oklahoma State Auditor & Inspector

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January 24, 2013

To the Honorable Mayor and City Council
City of New Cordell
101 East Main
Cordell, OK 73632-4823

Transmitted herewith is the Special Investigative Report of the City of New Cordell and its component unit trust authorities.

Pursuant to your February 23, 2012 request, and in accordance with the requirements of **74 O.S. 2001, § 227.8**, we performed a special audit/investigation with respect to the City of New Cordell and its component unit trust authorities for the period July 1, 2007 through the present.

The objectives of our special audit/investigation primarily included, but were not limited to, the areas of concern expressed by the City Council. Our findings and recommendations related to those objectives are presented in the accompanying report.

Because investigative 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 of New Cordell and its component unit trust authorities for the period July 1, 2007 to the present.

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/investigation.

This report is addressed to and intended solely for the information and use of the Mayor and City Council, and other state officials given oversight responsibilities, as provided by statute. 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,

A handwritten signature in blue ink that reads "Gary A. Jones".

GARY A. JONES, CPA, CFE
OKLAHOMA STATE AUDITOR & INSPECTOR

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CITY COUNCIL

(As of March 5, 2012)

Alex Damon	Mayor
Steve McLaughlin	Member
Vicki Dunlap	Member
Rick Weist	Member
LaZetta Penner	Member
Terry Patton	Member
Rick Oliver	Member
Cheryl Wedel	Member
Mike Stowers	Member

CITY CLERK

(As of March 5, 2012)

Teresa Gillihan

CITY TREASURER

(As of March 5, 2012)

Cheryl Hardage

EXECUTIVE SUMMARY

We performed a special audit/investigation, pursuant to the City Council's request, and in accordance with the requirements of **74 O.S. 2001, § 227.8**. This report addresses issues identified by the City Council, including issues raised by the CPA audit firm in its FY11 audit report and FY11 management letter. The audit period for our review was July 1, 2007 through the present.

This report covers seven objectives related to current and former city officials and employees.

Information developed for the first objective concerned the several types of pay received by the current mayor for various administrative positions, including the mayoral elective office, the "acting" city administrator, and the New Cordell Utilities Authority (NCUA) general manager. We report potential legal issues which we refer to the appropriate legal authorities for further review and investigation. Based on a municipal statute, an Attorney General's opinion, the NCUA trust indenture, and an NCUA resolution, we question the various amounts of pay and related fringe benefits paid to the mayor since the fall of 2007, amounts which greatly exceeded the authorized pay for the mayor's *elective office* salary.

We describe various routine issues that we reviewed for the second objective and make one recommendation for improvement in the City's compliance with the Municipal Budget Act.

Information developed for the third objective supports the findings that were communicated by the City's CPA audit firm in its FY11 audit report and FY11 management letter to the City Council, both dated December 15, 2011. Those findings were related to the abuse of the City's utility billing and collection policies by one current and four former officials and employees. We confirmed and expanded those findings for additional information developed on three relatives of two former officials and some other private customer accounts that we considered to be questionable under the circumstances. Our findings have been referred to the appropriate legal authorities for further review and investigation.

Information developed for the fourth objective supports a third finding that was communicated by the City's CPA audit firm in its FY11 management letter to the City Council, dated December 15, 2011. We again confirmed the management letter finding, and included additional information which we noted in our review of the City's Fuelman records and travel reimbursement policies, particularly those related to the mayor's contract for his duties as NCUA general manager. Our findings have been referred to the appropriate legal authorities for further review and investigation.

In our review of the fifth objective, we report additional information related to the management of the Washita Theatre, the failure to enforce contract provisions by the CRDA board, the failure to enforce utility billing and collection policies by the NCUA board and administration (for the theater's unpaid utility services), and the potential for abuse by the contractor operating the

theater resulting from a significant omission in the City’s contract, i.e. an “audit” clause that would allow the City to review or inspect the contractor’s records for accuracy.

In the sixth objective, we report answers to various grant questions raised by the public concerning the City’s older FEMA grant funds and a closed-out HUD grant, and we expanded our audit procedures to include a meth prevention grant that occurred during the audit period. We report questioned and undocumented costs for the meth grant and potential Open Meeting Act violations. We have also referred this issue to appropriate legal authorities and to the state grantor agency for further investigation.

We report several issues under the seventh objective, which was a generic “other concerns” type of request and make some recommendations for improvements in recordkeeping and other issues.

Introduction

The City of New Cordell, population 2,915, is located in Washita County, covering an area of approximately 2.5 square miles. The municipal government of the City of New Cordell (City) is organized under the statutory aldermanic form of government, as outlined in **11 O.S. § 9-101 et. seq.**, which states:

The form of government provided by Sections [] 9-101 through [] 9-118 of this title shall be known as the statutory aldermanic form of city government. Cities governed under the statutory aldermanic form shall have all the powers, functions, rights, privileges, franchises and immunities granted, or which may be granted, to cities. Such powers shall be exercised as provided by law applicable to cities under the aldermanic form, or if the manner is not thus prescribed, then in such manner as the governing body may prescribe.

In addition, the City and its public trust authorities are subject to the provisions of other sections in Title 11 (Cities and Towns), as well as other statutes found in various titles including, but not limited to, Title 25 (Definitions and General Provisions), Title 51 (Officers), Title 60 (Property, Chapter 4 Uses and Trusts), Title 61 (Public Buildings and Public Works), Title 62 (Public Finance) and Title 68 (Revenue and Taxation).

The City is governed by the City Council which consists of eight members, two from each ward of the City, who are elected at large. The Mayor, City Clerk, and City Treasurer are elected at large. When filled, city ordinances provide for a “city administrator” position, which is an appointed position.

The New Cordell Utilities Authority (NCUA) is a public trust established in accordance with **60 O.S. 2011, § 176, et al.** The NCUA provides water, sewer, sanitation, and electricity. As provided by the NCUA’s trust indenture, the members of the City Council serve *ex officio* as trustees of the NCUA.

The Cordell Development and Redevelopment Authority (CDRA) is a public trust established in accordance with **60 O.S. 2011, § 176, et al.** The CDRA administers various economic development activities and the local theater property. As provided by the CDRA’s trust indenture, the members of the City Council serve *ex officio* as trustees of the CDRA.

A private, independent audit firm audits the City and NCUA annually. Audit reports through the end of fiscal year 2011 were on file with our office.

All dollar amounts included in this report are rounded to the nearest dollar unless indicated otherwise.

Fiscal years in this report are abbreviated by using the ending calendar year. For example, the fiscal year of July 1, 2010 through June 30, 2011, will be identified as “FY11.”

Audit request

In a letter dated February 23, 2012, Mayor Alex Damon advised the State Auditor and Inspector that the City Council had voted in their February 21, 2012 meeting, to request a special audit of the City of New Cordell. The letter from Mayor Damon specified six objectives to be reviewed.

As a result of the City Council’s request, the State Auditor’s Special Investigative Unit conducted an investigative audit related to the concerns expressed to us. The audit period was designated to be July 1, 2007 to the present, although additional information was reviewed as necessary from prior periods. The results are in the following report.

OBJECTIVE I: Review compensation paid to mayor for the various administrative positions held.

Background

This objective was reviewed under the sixth of six topics or issues identified for review by the City Council in its February 23, 2012, request letter:

6. *Review of other issues*, including but not limited to the disposition of outdated and/or discarded city equipment and adherence to existing policies and procedures... [emphasis added]

Because of the significant nature of the findings and the size of the potential dollar amounts in question, we have included these findings at the start of our report.

Since the fall of 2007, Mayor Alex Damon (mayor) has held three positions in the City of New Cordell city government and the New Cordell Utilities Authority (NCUA). Each of these positions included a salary amount:

1. Elected mayor and “*ex officio*” trustee of the NCUA board, \$500 per month (\$6,000 annual).
2. “Acting” city administrator, while the appointed city administrator position is unfilled, \$500 per month (\$6,000 annual).
3. NCUA general manager, \$3,802 per month (\$45,627 annual, as of the date of fieldwork).

Finding

The mayor received additional compensation as “acting” city administrator. City Ordinance 2007-02, which provided additional compensation for the acting city administrator position, may conflict with 11 O.S. § 8-106 and a 2003 Attorney General Opinion.

Alex Damon was originally elected mayor on August 24, 2004. Prior to the August 2004 election, Mayor Damon had served for a short time as the “President” of the City Council following the resignation of former Mayor Bob Adams.

On January 16, 2007, the Council adopted City Ordinance 2007-02. Section (1)(a) of the ordinance provides:

SECTION 1: That has provided for and in conformance with requirements of Part 2, Chapter 1, Section 2-111 of the City Code of New Cordell, Oklahoma:

- a. Mayor: \$500.00 per month during any month in which a City Administrator is employed by the City; and \$1,000.00 per month during any full month in which no City Administrator is employed by the City.

From our review, it appeared that the change resulting from City Ordinance 2007-2 was an increase in the mayor's salary from \$140 to \$500 monthly. The balance of the language in the paragraph above, including the \$1,000 per month while acting as the city administrator stayed the same.

Nine months later, on September 10, 2007, in a special meeting, the former city administrator (Richard McClanathan) was terminated, creating an opening for the position. One week later, in a regular meeting on September 17, 2007, Mayor Damon discussed the city administrator position and provided two options to the Council.

Option one was to take applications for filling the city administrator (and by extension, the NCUA general manager position), with the second option being "to keep it in house." The minutes for the meeting indicated the mayor's talking points continued to promote option two and for the Council to hire himself for the position of city administrator.

According to the September 17, 2007, minutes:

Mayor Damon reported that the city had two options concerning the City Administrator position. First option is to start taking applications for City Administrator and second option is to keep it in house. The Mayor stated that he would stay as Mayor no matter what. He also reported that upon the termination of the City Administrator, he had been the acting administrator. He stated that if the Council decides to keep it in house, then he would be willing to take the position, however not for \$500 per month. The Mayor stated the federal [sic] requirement is that you can only be paid for the elected position, but the administrator position could be compensated by the NCUA and the CDRA. He explained that the Council by resolution can create a salary for the President of the Trusts. He explained that he had eight months experience, when he had to fill in for Richard and in the past Fred Smith. The Mayor reported that he

had built relationships with other city officials that could be beneficial for Cordell. He explained that he did not want to sacrifice his personal business, but feels confident and capable to do the job.

Actually, the prohibition against being paid more than the elective office salary is a *state* law. The meeting minutes do not record any overt action taken or decision made by the City Council concerning the vacant city administrator position.

City Ordinance 2007-02 authorized the mayor to receive an additional \$500.00 per month in compensation while the city administrator position was vacant. While this city ordinance authorized the additional income paid to Mayor Damon, we question the legality of the ordinance.

The City of New Cordell is a statutory aldermanic form of government. State statutes preclude *a member of the governing body* from receiving compensation for any position other than the elected office. According to **11 O. S. § 8-106**:

“...A person may hold more than one office or position in a municipal government as the governing body may ordain. A member of the governing body *shall not receive compensation for service in any municipal office or position other than his elected office.*” [emphasis added]

In this case, City Ordinance 2007-02 provided additional compensation to the mayor’s elective office, for performing the functions and duties of the city administrator position. As of November 2012, the mayor had received \$30,500 in salary, plus benefits, for functioning as the “city administrator,” which we believe is contrary to **11 O. S. § 8-106**.

In addition to the statute, an Attorney General Opinion may have applicability to New Cordell City Ordinance #2007-2. The opinion issued as 2003 OK AG 47, concerned the question of whether a fire chief, assistant fire chief, or other officer could also serve on the board of directors of a fire protection district.

The Attorney General concluded:

A chief, assistant chief, captain or any other officer of a fire protection district serving on the board of directors for that fire protection district creates a conflict of interest as a matter of law, *because holding both positions would violate the common law rule that holds offices are incompatible as a matter of law when one is subordinate to the other.* [emphasis added]

Under statute sections **11 O.S. § 9-104** and **9-105**, relating to the statutory aldermanic form of government, the mayor serves as both the “President of the Council” and the “Chief Executive Officer” *over* the appointed city administrator position. In the language of the above A.G. Opinion, New Cordell City Ordinance #2007-2 places the mayor in “incompatible offices” since the city administrator position is obviously “subordinate” to the mayor and governing board.

Finding

The NCUA board passed a motion hiring the mayor as general manager, contrary to its own Declaration of Trust, its own policy and the Title 60 conflict of interest statute.

In 1986, the New Cordell City Council created the New Cordell Utilities Authority (NCUA), *a Title 60 public trust*. The Declaration of Trust was the instrument creating the NCUA and naming the City of New Cordell as the “beneficiary” of the new public trust authority.

As with many other Oklahoma cities and towns, the New Cordell City Council has served as the board of trustees of the NCUA. According to one dictionary website, the term “ex officio” is Latin for “*by virtue of office or official position.*”

Section 5(C) of the Declaration of Trust reads:

From and after...the trustees of the trust shall be ex officio the same persons that are currently the Mayor and City Council of the City of New Cordell, Oklahoma, without distinction as to office held on the council, or in the event of a change in the form of government of the town, the elective members of the governing body thereof, or of any successor thereto. In the event any person eligible to become a trustee shall fail within thirty (30) days thereafter to so qualify, a vacancy may be declared to exist and the same shall be filled by the city council of beneficiary. In such event, any qualified elector of beneficiary shall be qualified to serve as successor trustee for the remainder of the term of the ex officio trustee whose vacancy he fills.
[emphasis added]

In April 2004, the NCUA board passed Resolution 2004-03 which reads in relevant part:

WHEREAS, the Governing Board of the New Cordell Utilities Authority is required by Section 5(C) of its indenture to be *ex officio* the Mayor and Council of the City of New Cordell.

BE IT FURTHER RESOLVED that, in execution of the requirements of Section 5(M) of its trust document, the Mayor, the President of the Council, the Clerk, and the Treasurer of the City of New Cordell (or their successors however styled) shall be the *ex officio* the permanent Chairman, the Vice-Chairman, the Secretary, and the Treasurer respectively of the Governing Board. [emphasis in the original]

The language in the Declaration of Trust and NCUA Resolution #2004-03 were key factors in determining whether the compensation received by the mayor as the general manager of the NCUA was proper.

The Declaration of Trust conveyed that the governing board of the City and the governing board of the NCUA were the same. Resolution #2004-03 clarified the specific office holders for the NCUA and indicated that whoever held the position of mayor for the City would also assume the position of “chairman” for the NCUA board. Therefore, since Alex Damon was the elected mayor, he was also the “ex officio” chairman of the board for the NCUA.

On October 1, 2007, two weeks after the discussion of the vacant city administrator position at the September 17, 2007 *city council* meeting, the *NCUA board* voted to accept Alex Damon’s “resignation” as chairman and trustee of the NCUA board, in its board meeting.

The NCUA minutes read:

Motion by Terry Patton, seconded by Rick Wiest, to accept Alex Damon’s resignation as Chairman and Trustee of the New Cordell Utilities Authority. Vote called: Aye: Duke, Dunlap, Wiest, Sperle, Patton, Oliver, and Hamilton. Nay: none
Motion approved 7 aye; 0 nay

At the same meeting, with the next motion, the NCUA board voted to hire Damon as general manager of the NCUA for the remainder of the fiscal year at an annual salary of \$43,000 plus benefits and an additional one-time incentive bonus of \$2,400.

The minutes read:

Motion by Rick Wiest, seconded by Rick Oliver, to hire Alex Damon as General Manager of the New Cordell Utilities Authority at a salary of \$43,000.00 per year plus benefits and a

one-time incentive bonus of \$2,400.00 for the term of October 1, 2007 to June 30, 2008. Vote called: Aye: Duke, Dunlap, Wiest, Sperle, Patton, Oliver, and Hamilton. Nay: None
Motion approved: 7 aye; 0 nay

The NCUA board accepted the “resignation” of Damon as chairman and trustee of NCUA, prior to hiring him as the general manager, contrary to the provisions of its own Declaration of Trust and its own stated policy in NCUA Resolution #2004-03.

Moreover, contracting with a trustee would also have created a statutory conflict of interest issue. The public trust statute for conflicts of interest is **60 O.S. § 178.8**, which provides in relevant part:

...a conflict of interest shall be deemed to exist in any contractual relationship in which a trustee of a public trust...in which such trustee or any member of his or her immediate family is an officer...shall directly or indirectly...contract with such trust...

By accepting Mayor Damon’s “resignation,” the NCUA board attempted to avoid Section 5(C) of the Declaration of Trust and the apparent *Title 60* statutory conflict of interest violation.

However, based on the language of Section 5(C) and the stated policy of NCUA Resolution 2004-03, we believe that the only way for Mayor Damon to resign from the board chairmanship and the NCUA board was at the same time to also resign from his City of New Cordell elective office of mayor.

We found no provision in the Declaration of Trust or NCUA policy that would allow Mayor Damon to resign as chairman and trustee of NCUA, *while also keeping his elected position* as mayor of the City of New Cordell. The offices of city mayor and the chairman of the NCUA Board were essentially one and the same.

In an interview, Mayor Damon claimed the city attorney had received a letter from the Oklahoma Municipal League (OML) indicating that he could hold the office of mayor and general manager of the NCUA. However, no such documentation could be provided.

During the course of our fieldwork, an OML representative responded to an email query sent by Mayor Damon. We noted the mayor’s question, and the reply from the OML official, addressed the issue of whether an individual could receive compensation as the general manager of the utility authority and “acting city administrator,” but omitted the key facts

that the “acting city administrator” was also *an elected official serving on the governing board of the municipality and serving “ex officio” on the NCUA board of trustees.*

Consequently, we are questioning any compensation that Mayor Damon received as general manager of NCUA, while holding the elective office of mayor and *ex officio* holding the office of chairman of the NCUA board, which we believe is a direct conflict of interest and violation of **60 O.S. § 178.8.**

The total NCUA compensation received by Mayor Damon since October 2007 has exceeded \$230,000 in salary through November 2012, plus employer paid FICA taxes, plus 10% OML retirement benefits paid, plus \$18,600 in vehicle allowances, and an unknown amount of Fuelman gas purchases averaging several hundred dollars *per month*, which were also part of the NCUA general manager’s contract, since at least November 2008.

Finding

Mayor Damon continued to receive compensation for the duties of general manager of the NCUA even after his contract expired, and the NCUA board voted to not renew it.

On April 19, 2011, the NCUA board voted in favor of not renewing the contract for general manager, which had expired on April 5, 2011. According to the minutes:

Motion by Steve McLaughlin, seconded by Dennis Vermillion, not to renew the NCUA General Manager contract. Vote called: Aye: McLaughlin, Dunlap, Wiest, Penner, and Vermillion. Nay: Patton, and Oliver.
Motion approved: 5 aye; 2 nay.

On June 6, 2011, the NCUA general manager contract issue was brought before the board *for a second vote*. That time, *the motion to approve a new contract* failed by a four-to-two vote.

Although we question the entire amount of compensation that Mayor Damon received as general manager of NCUA, Mayor Damon continued to collect the NCUA compensation even after the board voted not to renew his contract. As of December 2012, Damon was still receiving compensation as NCUA general manager.

The mayor’s explanation for continuing to collect the NCUA salary referred to the general manager contract provision under Section 2,

paragraph C, “If no action is taken, agreement will continue on a month-to-month basis, until renewal or modification takes place.” However, this rationale is invalid. The NCUA board did take action, voting twice to not renew the contract.

From April 2011 through November 2012, Mayor Damon has collected in excess of \$71,000 in additional NCUA salary alone, following the Board vote to not renew his contract, not counting the \$300 per month vehicle allowance, fuel purchases, and other fringe benefits. In our view, this matter goes beyond a misunderstanding or misinterpretation of NCUA board policy or the provisions of the contract and is being referred to appropriate legal authorities for review and further investigation.

Finding

The mayor was the deciding vote on another issue in which he personally benefited.

Part 2, Chapter 3, Section 2-103 of the city code provides in relevant part that the mayor:

...shall preside at meetings of the Council but he shall not be considered a member of the Council for quorum or voting purposes, except that the Mayor may vote on questions under consideration by the Council when the Council is equally divided. [emphasis added]

The language in Section 2-103 is similar to statutory language at **11 O.S. § 9-104** and indicates the mayor does not normally vote except in the event of a tie vote of the eight members of the Council. In that case, the mayor would cast the deciding vote.

As reported earlier, the former city administrator’s contract was terminated in September 2007. Starting in October 2007, Mayor Damon began receiving \$500 a month in additional salary as “acting” city administrator.

The combination of City Ordinance 2007-02 and Part 2, Chapter 3, Section 2-103 of the city code, created a situation that placed Mayor Damon in the position of casting the deciding vote on an issue in which he personally and financially benefited.

On June 20, 2011, the City Council voted in favor of advertising for the city administrator position. According to the minutes:

Motion by Steve McLaughlin, seconded by Zetta Penner, to advertise for a full time position for Cordell City Administrator with the City of New Cordell. Vote called: Aye: McLaughlin, Dunlap, Wiest, and Penner. Nay: Patton and Oliver
Motion Approved: 4 aye; 2 nay

Then in the November 21, 2011 meeting, the motion to terminate the process of searching for a new city administrator initially resulted in a tie vote. The minutes read:

Motion by Terry Patton, seconded by Rick Oliver, to terminate the process of searching for a new city administrator. Vote called: Aye: Patton, Oliver, Wedel, and Stowers. Nay: McLaughlin, Dunlap, Wiest, and Penner.
Due to a tie vote, Mayor Damon votes to break the tie with a yes vote.
Motion approved: 5 aye; 4 nay

As authorized by Part 2, Chapter 3, Section 2-103 of the city code, Mayor Damon cast the deciding vote to terminate the search for a new city administrator. As previously mentioned, Mayor Damon was receiving an additional \$500.00 for every month the city administrator position was not filled. In an interview, Mayor Damon indicated that the City advertised for the city administrator position for three-to-four months without much success.

Rather than abstaining on a motion in which he had a direct financial interest, the mayor voted to “break the tie” and terminate the search to fill the city administrator position. That vote directly resulted in Mayor Damon continuing to receive an additional \$500 a month in compensation, under City Ordinance 2007-02.

We observed that if the mayor had abstained from voting, it would have counted as a “no” vote under **11 O.S. § 8-111**. The motion would have failed, and the search for a new city administrator should have continued.

Recommendations

1. Considering the apparent questionable legality of payments to Mayor Damon in excess of his elective office salary, the City Council should consult with legal counsel concerning their potential liability for such payments.
2. The legality of City Ordinance #2007-02, providing for additional compensation for acting as city administrator, should be evaluated with regard to **2003 OK AG 47** and **11 O. S. § 8-106**.

3. The NCUA salary payments and benefits to Mayor Damon for the general manager contract should be terminated immediately, especially in view of the fact that the NCUA board voted **not** to renew the contract on April 19, 2011, and again on June 6, 2011. This matter has been referred to appropriate legal authorities for review and further investigation.

OBJECTIVE II: Review of “city financials,” including, but not limited to revenue, payables, bank records, travel, and reconciliation of these various accounts.

**Findings
and Observations**

The City was up to date in obtaining and filing its statutorily mandated audit reports, in accordance with O.S. 11 § 17-105.

In response to the City Council’s first request, a general review of the audit reports for FY08 through FY11 was done. The audit firm’s opinions for the four fiscal years reviewed utilized the language for an “unqualified” opinion, meaning there were no “material” errors or omissions in the financial statements, based on their test work and audit procedures performed.

All four audit reports indicated no internal control or compliance findings that would be required to be reported under Government Auditing Standards.

However, the FY11 report included the following statement:

“We noted certain matters that we have reported to the City Council and administrative employees of City of New Cordell, Oklahoma, in a separate statement of audit comments included with this report.”

The first matter reported included some utility billing issues that will be more fully covered under **Objective III**.

The second comment was a more common audit finding concerning the lack of signature approval by city officials and/or staff on the City’s accounts payable statements, invoices, and bills. The signature(s) are a statutory requirement to provide verification that the goods and/or services being billed to the City had been received, and the bills represented legitimate expenditures and obligations to be paid.

A *management letter* dated December 15, 2011, issued to the City Council in conjunction with the FY11 audit report, also included a third audit finding or comment on the use of the City’s fuel card(s) to purchase fuel for employees’ *personal vehicles* and some other fuel card and travel related issues. The fuel card and travel issues will be further addressed under **Objective IV** of this report.

We concur with the audit comments and findings provided to the City Council and administration by Britton, Kuykendall & Miller.

Finding

Statutory requirements common to Oklahoma municipalities appeared to be substantially in place and being followed, with some exceptions noted in purchasing documentation.

The City of New Cordell receives revenues that are typical of Oklahoma municipalities. Sales tax and other tax revenues are collected by the Oklahoma Tax Commission (OTC) and remitted to the City monthly. These tax revenues are deposited directly into the city's bank account by electronic fund transfer.

The City also collects utility service revenue, court fines and forfeitures, rental fees, royalties, and other miscellaneous revenues. We tested the City's bank deposits and found they were being done on a daily basis, as required by **O.S. 11 § 9-113**.

We reviewed the City's pledged collateral at the time of fieldwork, and found the City was in compliance with provisions of **O.S. 62 § 517.1, et al**. "Pledged collateral" is needed for public entities whose bank deposits exceed the limits of Federal Deposit Insurance Corporation coverage.

In test work, we noted some invoice and statement documentation for accounts payable was not signed by an employee or official taking responsibility for the receiving of goods and/or services. This is required by **O.S. 62 § 310.1a** and our test confirmed the same issue that was reported by the City's audit firm.

We noted purchase orders generally had a requisition name and a "budget control" or encumbrance officer signature, but some purchase orders were not signed by the mayor and/or other approval authority. The dating of signatures was often omitted.

Encumbrances against budgetary accounts are delayed due to the lag time between ordering/obligation/purchase and the recording of purchase orders and preparation of check/warrants by the contracted CPA accounting firm, functioning as the City's financial consultant.

The City is preparing and filing its budgets under the provisions of the Municipal Budget Act, **O.S. 11 § 17-201, et al**, which requires three fiscal years' information to be provided, those being the previous fiscal year, the current year under which the municipality is operating, and the proposed budget year being considered.

However, the budget format omitted a “budget message” to “explain the budget and describe its important features,” as required by **O.S. 11 § 17-206**. Some improvements should be made to the budget format being used by the City to fully comply with the Municipal Budget Act.

Finding

A substantial amount of the bookkeeping and financial transaction processing and reporting is being done by the City’s contracted accounting firm.

The City of New Cordell contracts with R. S. Meacham CPAs & Advisors of Clinton, OK, (the firm) for bookkeeping, payroll, budgeting, check/warrant preparation and financial statement preparation. The firm records and processes purchase order and payroll transactions for the City’s General Fund and the NCUA operating account, the City’s two largest and most active funds/bank accounts. The checks/warrants prepared by the firm are returned to the city treasurer’s office to be signed and distributed.

The city treasurer maintains checkbooks in-house for the less active bank accounts and writes manual checks from those accounts, as necessary. At month-end, the treasurer sends the unopened bank statements to Meacham. The firm inputs the remainder of bank account transactions, other than the General and NCUA transactions already recorded, into the accounting software from the bank statements.

The firm performs bank reconciliations. After the reconciliations are done, the firm returns the bank statements to the city treasurer. This provides an important segregation of duties between city officials generating purchasing transactions and disbursements, the reconciliation of the bank statements, the recording of the City’s/NCUA disbursements, as well as the compilation of the financial reports.

Under present audit standards, a CPA firm cannot consult with or compile the financial statements for an entity, and then also perform an audit of those financial statements, as had been the common practice in the past. This is one reason why the City now contracts significant accounting and consulting services, while also contracting with *a different CPA firm* for an *audit* of its financial statements.

Recommendation

As noted before, a “budget message” discussing the important features of the budget, significant changes from prior budgets and additional explanation to help the reader/citizen understand the City’s plans for the next fiscal year should be included with the budget summaries and three fiscal years’ data to fully comply with the Municipal Budget Act.

OBJECTIVE III: Review of utility authority records, including city personnel and residents related to past due/delinquent accounts, reconciliation, and the current bill averaging program and process.

Background

This objective primarily related to overdue utility account balances of five city employees. As noted in Objective II, the City's audit firm issued an audit report and a management letter addressed to the Mayor and City Council reporting several issues found during the course of their FY11 annual financial audit. One of the issues identified by the audit firm involved the City administration's override of the City's policies and procedures, particularly the disconnect policy, in regard to the five city officials/employees.

The City policy pertaining to delinquent accounts reads in relevant part:

A bill is considered to be "late" or "delinquent" if payment is not made on or before the penalty date. If payment is not made on or before the penalty date, a reminder notice will be printed no less than one working day after the penalty date. When the reminder notice is printed the 10% penalty will be reflected on the notice. The reminder notice will state that payment must be made within 10 days after the date of the notice. At that time if payment is not made, the utility service will be disconnected...

If a utility bill is not paid on or before the date shown on the reminder notice, or the date of an agreement the utility service will be discontinued as soon as practical.

The reminder notice states full payment is required on the past due bill. Although partial payments are accepted, partial payments may not prevent utility services from being disconnected for nonpayment. A customer may be disconnected for any amount after the date of the reminder or extension.
[emphasis in the original]

The City had a practice of allowing customers experiencing challenges in paying for their utility services to enter into a variety of agreements to assist the customer in reducing the amount delinquent, while also staying current with the current month's charges. The agreements utilized by the City included a "Deferred Payment Plan" (DPP), an "Arrears Balance Contract Payment Plan" (ABCPP), and a "Customer Average Billing" (CAB).

The DPP and the ABCPP are similar in that the customer agrees to pay a monthly amount, usually \$50.00 or \$100.00, to be applied toward the amount delinquent, *in addition to the current charges*. The DPP contains the following language:

I, customer, agree to pay \$___ a month on this delinquent account (**in addition to the current amount**) and continue those payments until my account has been fully paid. I understand that unless these payments are made by the ___**of___month**, my utility service will be disconnected. [emphasis in the original]

The ABCPP contains this language:

Customer has until the 15th of each month to pay the total payment due as above. If payment is not made by the 15th of each month, you will receive a **RED TAG** for Breach of Contract total due and utilities will be scheduled for disconnect. [emphasis in the original]

The language in both the DPP and the ABCPP indicate that if the terms of the agreement were not followed, then services would be disconnected by the City. With the CAB, the customer agrees to pay the average of the last 12 months of utility billing. The following is an excerpt from the CAB agreement:

-No penalties on customer account
-This means **NEVER**
-If a penalty occurs the averaging will be disconnected.
[emphasis in the original]

In other words, the CAB would be canceled if any payment was made after the 15th of the month, since that is when a penalty would occur. City policies indicate a 10% penalty would be assessed for payments received after the penalty date, or the 15th of the month.

From the language contained in the above policies and agreements, we concluded that the City policies in place were assertive in not tolerating any deviations from those policies and holding utility customers accountable for any failure to meet the City's terms and conditions. However, these clear policies were ignored and/or overridden by city officials for at least the five city employees, three relatives of the former city clerk and former city treasurer, and several other private utility service customers.

Finding **A test of other city employees and reviews of the delinquent lists indicated the abuse of city policies was not more widely spread among city employees.**

In addition to the five employee accounts reported by the audit firm, we also reviewed a sample of ten other employees. We found in most cases that the employees sampled paid their monthly bills in full.

Other employees were making consistent payments and were assessed late fees, when applicable. The findings below are based on five officials/employees' accounts and the three accounts belonging to relatives of two former officials.

Finding **City employees and/or officials were allowed to accumulate large unpaid balances without the risk of disconnection, contrary to the City/NCUA's policies and procedures.**

We obtained employee customer account histories and written policies that establish the billing, collection, and utility service disconnection guidelines.

The following is a summary of the utility billing and collection procedures based on city policies described above:

- Payments are considered delinquent if payment is not made on or before the penalty date.
- If payment is not received by the penalty date, a reminder notice is sent to the customer and a 10% late fee is assessed.
- Payment must be made within 10 days of the late notice.
- If payment is not made by the predetermined date, then the utility services will be disconnected.

Customer account histories were used to obtain the necessary payment and balance information for accounts belonging to the following five city employees and/or officials:

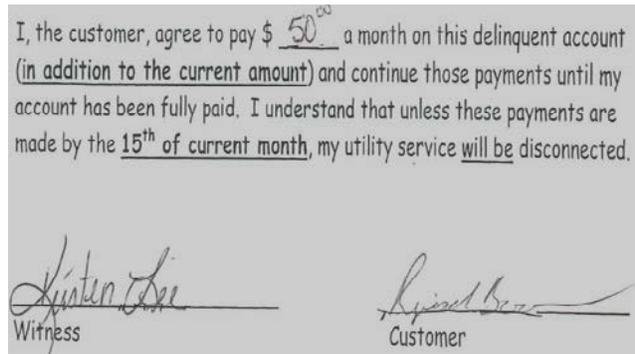
- Russell Boecker – Former Chief of Police
- Strider Estep – Former Assistant Chief of Police
- Carrie Davis – Former City Treasurer
- Kristen Lee – Former City Clerk
- Theresa Stewart – Current Police Dispatcher

Russell Boecker – Former Chief of Police

According to Boecker's account history, he began accumulating large unpaid balances prior to the July 1, 2007, start of our audit period. The balance first exceeded \$1,000.00 in December 2007, and reached a high of \$11,967.05, as of January 18, 2012.

On April 16, 2007, Boecker had entered into a DPP agreement with the City.

As shown at right, the agreement showed that Boecker agreed to pay \$50.00 a month in addition to his current charges by the 15th or services would be disconnected. Even after the agreement was signed, no payments were made on the account before the 15th of the month requirement and Boecker continued to accumulate an increasing unpaid balance.



In August 2007, approximately four months after the agreement was signed, the payment on the account was less than the August amount billed, and no payment was remitted for the following month of September.

Beginning in April 2008, payments on the account became sporadic and by April 2009, several months would pass without a single payment. Then for the period September 2009 through December 2011, no payments at all were made on the account. Contrary to City policies, Boecker made payments late or not at all without being disconnected, and was charged a penalty on only two occasions during the period of May 2007 through January 2012.

Although the terms and conditions of City policies regarding the disconnection of utility services and the deferred payment agreement were unambiguous, Boecker was allowed to accumulate an unpaid balance that reached \$11,967.05, before a payment of \$10,000.00 was made on January 18, 2012.

Although the account was subsequently paid in full on May 18, 2012, (during OSAI's fieldwork), Boecker was allowed to avoid what would be

a significant amount of penalty late fee charges, which were required to be assessed by City policy.

In this case, there appeared to be a complete disregard for City policies and the signed deferred payment agreement. Even after the DPP agreement was executed, there was little to no impact on the consistency of payment by Boecker, rendering City policies and the signed deferred payment agreement virtually meaningless.

Strider Estep – Former Assistant Chief of Police

The account history for Estep showed that he was also allowed to accumulate large unpaid balances that reached as high as \$5,081.81, contrary to City disconnection policies.

With the exception of two months, Estep paid at least *some* amount toward his account on a monthly basis from July 2007 through December 2008. Beginning in January 2009 through December 2009, payments on his account became sporadic, with the unpaid balance growing from \$284.29 to \$1,805.95.

In the spring of 2009, the account was changed to his spouse's name, and a deferred payment agreement was signed by the spouse on October 2, 2009. According to the DPP agreement, Estep agreed to pay \$50.00 each month, in addition to the current bill.

At the time the agreement was signed, the account balance was \$1,207.99. As with the other agreements mentioned in this report section, this agreement was also ignored and meaningless. The month following the date of the agreement, the payment was less than \$9.00 above the billing amount, not the agreed \$50.00, and the next month there was no payment at all.

For the period January 2010 through July 2011, there were seven months in which no payments were made, and there were other months in which the amount paid was less than the current bill due.

On August 31, 2011, an "Arrears Balance Contract Payment Plan" was signed by Estep's spouse, which required a \$100.00 payment in addition to the monthly billing. Although the intent of both agreements was to reduce the overdue account balance during the time period between this agreement and the earlier DPP agreement, the delinquent/overdue amount increased from \$1,207.99 to \$3,689.35.

Subsequent to the signing of the August 31st ABCPP agreement, again no payments were made in September and December 2011, and the payments that were made following the signed agreement were less than the current amounts billed.

Penalties were charged at times, but not on a consistent basis, even in cases in which no payment at all was made.

Beginning January 2012, there was some effort made to reduce the delinquent balance. As of May 18, 2012, the balance on the account was \$2,281.48.

Carrie Davis – Former City Treasurer

The account history for former City Treasurer Carrie Davis showed that she was allowed to accumulate large unpaid balances, as high as \$5,772.03 at one point, contrary to City disconnection policies. On August 1, 2008, Davis signed an average billing agreement with the City agreeing to pay a monthly average (at that time) of \$214.00.

Although normally allowed for any qualifying utility customer accounts, the City administration had a practice of also utilizing the “customer average billing” (CAB) agreement for customers having difficulty paying for their utility services. With this agreement, the customer pays the average of the last 12 months history of utility billing. As with the previous two city officials, this agreement for Davis was ignored and was equally meaningless.

Davis managed to pay three months of average billing before skipping a payment in December 2008. Based on city policy, not making your monthly payments would nullify the agreement, and the City’s disconnection policy would take effect. Instead, a second agreement with the City was signed on August 4, 2009, even though the first agreement was not followed or enforced.

The second agreement changed the monthly payment to \$168.00. Prior to the signing of this agreement, payments were not made in the months of April, June, and July 2009. And, like the 2008 agreement, the 2009 agreement was also ignored. After signing the August 4, 2009 agreement, Davis did not make a payment on her account until December 22, 2009. For the next two years, Davis only made one \$300.00 payment on her account.

The billing software “flags” *average billing* customers, so that the overdue balances *do not appear on the monthly delinquent list*. By signing the *average billing* agreement (although ignored), Davis circumvented the disconnection policy and avoided paying penalty fee charges, while accumulating an unpaid utility account balance of \$5,772.03, as of January 18, 2012.

In January 2012, Davis began making payments on her account. As of May 7, 2012, the account still had an unpaid balance of \$3,503.46.

In an interview, Davis indicated she did not have the money to make consistent payments, and no one had said anything if a payment was not made (conveniently ignoring the fact that she was a city official with a fiduciary duty to her employer and the citizens). She added that it was easier to not pay the City and pay her other bills instead.

Kristen Lee – Former City Clerk

The account history for former City Clerk Kristen Lee showed that she was allowed to accumulate large unpaid balances up to \$7,025.99, contrary to City disconnection policies. Lee, who as the city clerk/utility clerk, along with Mayor Damon, as NCUA “general manager,” appeared to be the employee(s) most responsible for maintaining utility customer accounts and enforcing the City/NCUA’s utility collection policies.

On July 18, 2007, Lee signed an average billing agreement with the City, agreeing to pay \$205.00 monthly. Lee failed to make the November 2007 payment, and only paid \$150.00 in December 2007. Instead of the agreement being rendered null and void, another agreement was signed on June 20, 2008, with a monthly payment requirement of \$233.00.

No payment was made in July 2008, November 2008, December 2008, and May 2009, and only partial payments were made in August, September, and October 2008. Once again, even though the previous contracts had not been fulfilled, a third contract was signed on June 29, 2009, with an average payment requirement of \$233.00 a month. Lee was allowed to sign the 2009 contract, while only making partial payments for three months and no payments at all for four months, including the month preceding the date the contract was signed.

No payments were made on the account for the two months following the June 29, 2009, contract and only payments of \$230.00 and \$250.00 were made until the *fourth* average billing contract was signed on June 29, 2010, with an average payment requirement of \$209.00. Subsequent to

signing the 2010 contract, Lee made only one \$100.00 payment on the account on September 9, 2010.

A fifth, and equally meaningless and ignored, average billing agreement was signed by Lee's spouse on May 24, 2011, which required a monthly payment of \$698.00. No payments were made on the account until August 2011. Although the agreement showed the payment requirement was "\$698.00," there were five payments of \$100.00, two payments of \$150.00, and one payment of \$300.00 made on the account from August 2011 through December 2011.

On November 29, 2011, and just prior to the release of the FY11 audit report and management letter by the CPA audit firm, there was an apparently unauthorized \$1,200.00 credit adjustment made to the Lee account. On January 24, 2012, two months later, a "Transfer or Adjustment Voucher" was issued to reverse the \$1,200.00 adjustment, which contained the following remarks:

REMARKS
Per Alex: Remove Credit Adjustment This was not authorized. Return \$1,200.00 to bill

The account history shows the credit adjustment was reversed with a debit adjustment to the account balance on January 26, 2012.

Although the account balance was subsequently paid in full on April 23, 2012, Lee also avoided paying a significant amount of penalty late fee charges, which did not begin to be assessed until February 27, 2012.

In an interview, Lee indicated she had a previous conversation with Mayor Damon in which she explained that she could not pay due to family health issues and would not be able to pay her utilities until June 2012, when funds from a 401K retirement account could be withdrawn.

Theresa Stewart – Current Police Dispatcher

The account history for Stewart showed that she was allowed to accumulate large unpaid balances that reached as high as \$5,486.86, contrary to City disconnection policies.

From July 2007 through December 2007, only one payment of \$192.66 was made on the account and by December 21, 2007, the unpaid balance had already reached \$1,457.89.

From January 2008 through December 2008, only six payments were made on the account, ranging from \$200.00 to \$500.00, including a four month period with no payments at all.

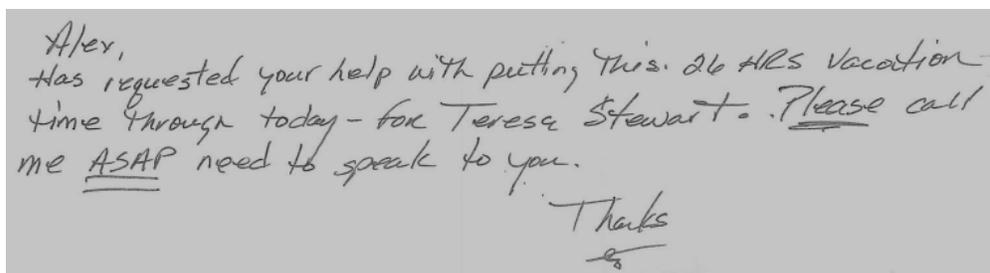
Payments were sporadic until October 2011, when at least some type of payment was made on a monthly basis. Prior to October 2011, Stewart signed a “Deferred Payment Plan” on April 22, 2011, agreeing to pay \$50.00 in addition to the current bill, until paid in full. Although the agreement went into effect beginning May 2011, between a payment on January 10, 2011, and one made on October 4, 2011, there was only one other payment of \$50.00 made in a 267 day period in 2011.

Although the first contract was not effective, Stewart’s spouse signed an “Arrears Balance Contract Payment Plan” on September 19, 2011, agreeing to pay \$100.00 a month in addition to the current bill, effective October 2011. At the time the agreement was signed, Stewart’s delinquent amount was \$4,687.79. Stewart did manage to pay each month until April 2012, in which no payment was made.

After November 2007, Stewart also avoided being charged late fee penalties.

In addition, on April 13, 2012, Stewart received a net payment of \$235.20 for unused vacation time. Instead of the payment being applied to Stewart’s overdue account, Mayor Damon authorized the check for unused vacation time to be issued to Stewart. At the time, Stewart had a delinquent account balance of over \$4,600.

Mayor Damon approved the request for the payment even though Stewart’s account was included on the delinquent account report he was being given each month. Shown below are the remarks that appeared on a fax from the treasurer to the city clerk:



Alex,
has requested your help with putting this 26 hrs vacation
time through today - for Teresa Stewart. Please call
me ASAP need to speak to you.
Thanks
[Signature]

As of May 12, 2012, Stewart's account remained unpaid in the amount of \$4,360.62.

Finding

Relatives of the former city treasurer were allowed to accumulate large balances without being disconnected, contrary to City policies.

The history for the city treasurer's daughter showed the account was active from May 26, 2009 to September 27, 2010. Payments on the account were sporadic, with two payments in February 2010, and no payment at all in eight of the seventeen months during the time period. In the four month period of February through May 2010, there were no payments.

Service was discontinued by the daughter, and the \$185.00 service deposit was credited to the account, leaving a still outstanding balance of \$837.21.

The history for the city treasurer's son showed a beginning unpaid balance as of July 25, 2007, of \$289.49 and by February 27, 2012, the unpaid balance had accumulated to \$2,903.57. Payments on the account were sporadic, and during one period, no payment was made for five straight months.

On March 31, 2011, the son signed a deferred payment agreement with the City, indicating the current monthly bill plus \$50 would be paid on the account. Within two months, less was being paid on the account than the current amounts billed, and no payment was made in June or July of 2011.

Unlike the city employees mentioned above, the former treasurer's son was served a disconnection notice on October 3, 2011, for breach of contract. The notice indicated that if remittance was not received by October 5, 2011, for the unpaid balance of \$2,411.58, services would be disconnected. The cut-off notice was not enforced, although there was a \$602.90 payment made on the account on October 6. Following those events in October, the unpaid balance then increased from \$2,411.58 to a balance of \$2,903.57 on February 27, 2012, at which point the services were discontinued and the balance remains unpaid.

As with the other accounts, there seemed to be no discernible pattern for whether or when penalty fees were assessed. There were months in which there was no payment made, but no penalty fees were charged to the account.

Finding **A daughter of the former city clerk was allowed to establish an account for utility services without providing an upfront service deposit, contrary to city policies.**

We also noted the former city clerk's daughter began services on October 24, 2011, in which the deposit was waived by her mother. Records show the account was open only a short time and was disconnected on November 3, 2011. Because no service deposit had been collected to guarantee a final bill, the \$120.45 balance remained unpaid as of April 4, 2012.

Finding **Large unpaid account balances were not confined to the five city employees and/or the children of city officials. In our review of delinquent lists, we noted approximately 25 to 30 nonemployee customer accounts that also were allowed to carry relatively large balances.**

The delinquent account balance of the Washita Theatre will be discussed further in Objective V. Most Cordell residents have heard of this issue since it has been an ongoing topic of conversation in City Council meetings and in the community.

Our review of delinquent lists from October 2011 to June 2012 indicated a number of apparent residential customers and one commercial customer who also seemed to be carrying excessive account balances. The October 2011 delinquent list had 30 nonemployee accounts meeting our criteria of balances greater than \$500, and some portion being 90 days overdue. The largest of these 30 apparent nonemployee accounts had a balance of over \$6,200, with an average account balance of approximately \$1,650.

By the June 2012 delinquent list nine months later and during our ongoing fieldwork, we noted some improvement with 23 nonemployee accounts averaging approximately \$1,400 and the largest being a little over \$5,200.

We did not review the circumstances of these accounts, since they appeared to be private nonemployee accounts and our primary focus was on the utility account abuse and override of controls by city officials. We have recommended these accounts be investigated by another state agency with authority to investigate private individuals.

Conclusion **The City adopted policies to ensure customers paid their utility bills in a timely manner and provided payment plans for customers that had difficulties paying for their city services. City policies provided**

consequences for customers who did not pay on their account or did not fulfill terms of alternative payment agreements. However, with the customer accounts described in this report section, policies and agreements were disregarded and not enforced or only sporadically enforced.

The City established internal controls that were intended to identify issues with customer accounts and provide consequences for those that did not pay in timely manner. Internal controls and procedures included:

- The city clerk/utility clerk was responsible for posting payments, preparing monthly billing, tracking past due accounts, and ensuring that customers on the average billing plan maintained their monthly payments.
- A customer delinquent report was printed and provided to the mayor/NCUA general manager for review monthly.
- City policies and payment agreements indicated that customers who did not pay their bills or did not comply with the terms of the payment agreement would be disconnected.

However, problems were ignored, and the system was abused by the very people who were entrusted with oversight responsibility and a fiduciary duty to their public employer and the citizens, in audit terms, there was “management override of controls.”

Former City Clerk Lee was responsible for tracking past due accounts, while at the same time allowing her own account to become significantly past due, with a balance exceeding \$7,000 at one point.

Former City Clerk Lee and former City Treasurer Davis both filed “average billing” agreements that seemed to us to be an attempt to conceal their growing delinquent account balances. Customers that were flagged with “average billing” agreements did not appear on the delinquent account list. Davis also changed the name on her account to her deceased mother’s name, apparently attempting to avoid detection by that ploy.

According to the mayor/NCUA general manager, he was provided the list of delinquent accounts monthly, but he claimed to have only looked “at the bottom line” and not at individual account balances, thereby admitting at least his “lack of due diligence” required by the general manager position.

However, former City Clerk Lee, who presented the delinquent lists to the mayor, indicated in an interview that she had consistently pointed out

former Police Chief Boecker’s over \$10,000 delinquent account to the mayor. According to Lee’s interview, the mayor had told her “he would take care of it” or words to that effect. Of course, former City Clerk Lee’s name was not on those delinquent lists, since she had flagged her account as an “average billing” customer.

The City’s audit firm reported the utility billing abuses to city officials in its audit report and its management letter, both dated December 15, 2011. We believe it reasonable to conclude that had the audit firm not identified the officials’ and employees’ excessive utility account balances and disclosed those issues to the City Council, the abuse would have continued for an indefinite time, with the overdue balances continuing to increase.

Recommendation We have no recommendations for the utility billing “management override of controls” that benefitted former city officials and city employees for extended periods of time.

The above circumstances have been referred to the appropriate legal authorities for legal review and further investigation. We believe that there are several criminal statutes that may be potentially applied to the above findings and actions and/or inactions of current and former officials and employees.

OBJECTIVE IV: Review Fuelman cards, including, but not limited to, compliance with established policies and procedures, etc.

Background

This concern stems from two issues that were reported by the City’s audit firm in a letter issued to the Mayor and City Council. One issue related specifically to a clause in the mayor’s NCUA “general manager” employment contract providing for both a vehicle allowance and the purchase of fuel. The audit firm also identified a circumstance in which city employees used the City’s fuel card to purchase fuel for their personal vehicles and were reimbursed for mileage for the same trips.

This was the third of six topics indicated in the City Council’s request letter.

Finding

The mayor was allowed to purchase fuel using a city fuel card in addition to receiving a \$300.00 monthly travel allowance. There was insufficient documentation maintained for the mayor’s fuel purchases. The City did not properly report the vehicle reimbursements and fuel purchases in accordance with IRS guidelines.

Typically there are three methods that public entities use for vehicle travel and reimbursements:

- Employees may be provided a city-owned vehicle to use for city-related travel.
- Employees may be paid a set amount for a vehicle or travel “allowance,” generally established as a part of the employee’s contracted compensation.
- Or employees may submit a “mileage” claim for reimbursement for a personal vehicle used for city purposes at an authorized rate.

Any of the methods a municipality chooses is permissible; however, in this case, the mayor received a \$300.00 monthly vehicle “allowance” and was also provided a city-issued fuel card for fuel purchases. There were no controls or reporting requirements in place to provide accountability on the use of City’s fuel card.

According to Section 3 paragraph B of the mayor’s NCUA “general manager” employment contract:

NCUA agrees to pay Employee the sum of Three Hundred Dollars and no/100's, (\$300.00) in advance each month vehicle allowance. NCUA agrees to pay all applicable FICA costs for both the Employer and Employee under this paragraph. NCUA agrees to also provide Employee with fuel or reimbursement for all NCUA related business. [emphasis added]

Although the contract was approved by the Board, we questioned the terms for dual compensation for the use of a personal vehicle, which included the vehicle allowance, while also allowing the mayor to use city/NCUA purchased fuel for the mayor's travel "for all NCUA related business."

In cases in which a personal vehicle is used for governmental business, employees ordinarily must submit some type of mileage claim showing the date, destination, number of miles, and purpose of the trip. In this case, the mileage reimbursement method was not used. Instead, fuel was purchased for a personal vehicle.

The City does not require or maintain any type of vehicle logs. No records of any kind were provided to account for the use of the fuel purchased with the City/NCUA's Fuelman card. Nothing was recorded to demonstrate or report how the fuel purchased was related to "NCUA business" or whether it was for the mayor's personal travel that would require reimbursement to the City/NCUA.

As an example, we totaled the mayor's vehicle allowance and fuel purchases from January 2011 through December 2011. For calendar year 2011, the mayor's fuel purchases totaled \$4,365 (\$364 average per month), in addition to the \$300 monthly vehicle allowance which totaled \$3,600. Therefore, the mayor purchased fuel totaling \$4,365 for his personal vehicle with virtually no records to support or demonstrate that the purchases were actually for City/NCUA related purposes.

The mayor attended meetings on a regular basis for various organizations, such as Oklahoma Municipal League (OML), Southwestern Oklahoma Development Authority (SWODA), Midwestern Oklahoma Development Authority (MODA), and Custer-Washita Health Action Team (CWHAT).

We obtained meeting dates from the various organizations in which Mayor Damon is a member and compared those dates to fuel purchases. We noted fuel purchases corresponded to dates in which Damon attended meetings for these various organizations. We found in some cases, the mayor was reimbursed mileage expenses by three of the organizations in addition to the monthly vehicle allowance and the purchase of his fuel. In

effect, the mayor received a *third* type of travel reimbursement for at least some of the same miles traveled and being paid for by the vehicle allowance and the supply of City/NCUA paid fuel.

For calendar year 2011, Damon was reimbursed mileage expenses from SWODA in the amount of \$142.80 and \$157.05 by MODA. As described in Objective VI, the mayor also received mileage reimbursements from one of the City's federal grants.

In an interview, Mayor Damon indicated he is a member of the Damon Jackson Band. We obtained information about the band's bookings from the mayor's Facebook page. For calendar year 2011, we noted seven instances in which the City's Fuelman card was used to purchase fuel on band performance dates. In the absence of adequate supporting documentation, we have no method to determine how much of the fuel costs related to the personal use of the mayor's vehicle, including his band's performances.

IRS Publication 463 recognizes various methods for reimbursement of vehicle expenses including an *accountable* and a *nonaccountable* plan.

The IRS *accountable plan* is one that meets the following criteria:

- Expenses are business related expenses.
- Expenses are "adequately accounted" for.
- Any excess reimbursement or allowance is returned.

A *nonaccountable plan* is a reimbursement or expense allowance that does not meet one or more of the three rules listed above. Because no logs or expense records were maintained, the City has opted for a *nonaccountable plan* under IRS rules and regulations.

The IRS guidelines, with respect to a *nonaccountable plan*, require the employer (City) to combine the amount of any reimbursement allowance with the employee's wages, salary, or other pay, and to report those earnings on the employee's Form W-2.

We reviewed the W-2's issued for Mayor Damon from 2008 through 2011. We determined that neither the \$3,600 annual vehicle allowances, nor the fuel purchases for the mayor's personal vehicle, were included in those years' W-2 forms. Based on the fuel purchases for calendar year 2011, since the fall of 2007, we would estimate the mayor received approximately \$32,000 in *taxable* "unaccountable" travel reimbursements that has *not* been reported to the IRS or Oklahoma Tax Commission.

Finding **We found the method used for paying Mayor Damon’s vehicle allowance to be unusual.**

In governmental entities that provide vehicle allowances for the use of personal vehicles, we normally expect to see the amount of the vehicle allowance in some fashion added to the gross pay for income tax purposes and reported on the employee’s W-2. Instead, the mayor’s \$300 per month vehicle allowance was paid by means of a “negative” payroll *deduction*. The “negative deduction” increased the mayor’s net pay by \$300, with no effect on his taxable gross compensation reported on his W-2’s.

In an interview, the explanation from the City’s financial consulting firm was that the software they were using did not allow “reimbursements,” so the vehicle allowance was included as a negative deduction, apparently under the working assumption that the vehicle allowance was a “reimbursement” and therefore nontaxable.

As noted in the previous finding, we disagree with that working assumption. The vehicle allowance and fuel purchased for the mayor’s private vehicle(s) were taxable fringe benefits, required to be reported to the IRS and Oklahoma Tax Commission.

Finding **Two other city officials used a city fuel card to purchase fuel for their personal vehicles.**

This matter was also reported by the City’s audit firm in their letter dated December 15, 2011.

We obtained the fuel card statements for calendar year 2011 and noted fuel purchases for Carrie Davis totaled \$503.06 and \$221.86 for Kristen Lee. In addition to the fuel purchased for their personal vehicles, Davis was also compensated \$120.15 for mileage and Lee received \$82.01 during calendar year 2011.

We would normally obtain travel claims submitted by the employees and compare travel dates to fuel purchases. However, when we asked for travel claims, we were informed that the employees were paid through the payroll system and not accounts payable, as we would expect for a mileage-based travel reimbursement. As in the case of the mayor’s travel allowance previously discussed, these employees received their mileage reimbursement by means of a “negative” payroll deduction.

Vehicle logs were not maintained for these employees to document the business use of their vehicles or to support or demonstrate the “public” purpose for these fuel purchases for personal vehicles.

Unlike the NCUA general manager contract that provided some authority for the mayor’s purchase of fuel for a personal vehicle, there was no apparent policy or written authorization for these other former city officials to use the City’s Fuelman card to do the same with their personal vehicles.

As with the mayor/NCUA general manager’s fuel purchases, the fuel purchased by the former city clerk and former city treasurer also was not reported as taxable fringe benefits.

Conclusion

Some of the above circumstances appeared to be sanctioned by the NCUA contract approved by the NCUA board and/or by the board’s failure to provide adequate reporting procedures to ensure accountability for the fuel purchases of the mayor/NCUA general manager.

Other circumstances reported above appeared to be intentional abuses and/or travel frauds, which have been referred to the appropriate legal authorities for review and further investigation.

Recommendation

1. We recommend the City review its travel policies and taxable income reporting procedures and make sufficient revisions to ensure compliance with IRS guidelines and prevent further abuses.
2. Legitimate reimbursements for private vehicles used for occasional public purpose travel should be paid with a travel claim *designed for the purpose*, detailing dates traveled, mileage and mileage rate paid, start and finish destinations, purpose of the trip, and paid through ordinary purchasing processes, not through the payroll system.

OBJECTIVE V: Review Cordell theater account(s), including, but not limited to revenue, payables, bank records and reconciliation.

Background

The Cordell Development and Redevelopment Authority (CDRA) is a component unit of the City of New Cordell in which the City Council members serve “ex officio” as the board of trustees. The CDRA is the owner of the Washita Theatre located at 111 South Market Street in Cordell, Oklahoma. Some years ago, the CDRA received several grants totaling \$274,900 to assist in financing the restoration of the theater.

On March 17, 2008, the CDRA entered into a lease agreement with 4 Wall Entertainment (lessee) for the operation and maintenance of the theater. In return, 4 Wall Entertainment agreed to pay the CDRA a monthly rent equal to 20% of the *non-concession* revenue. 4 Wall Entertainment, Inc. later became Bijou Entertainment, Inc.

There were several issues expressed to us pertaining to the theater. One of the main concerns related to compliance with the terms of the lease agreement regarding the payment of utilities furnished to the theater. Another concern raised was whether or how much of the \$274,900 in grant funds may have to be repaid, if the theater was sold.

Finding

A private for-profit business was allowed to accrue over \$25,000 in unpaid bills in what amounted to an undocumented perpetual “loan” between the CDRA/NCUA and a private for-profit business, in violation of the contractual agreement.

As previously noted on March 17, 2008, the CDRA and 4 Wall Entertainment, Inc. entered into a lease agreement related to the operation of the Washita Theatre. The terms of the lease agreement specifically addressed utilities service and the payment of utility bills in Section 7 of the Lease Agreement which stated:

7. UTILITIES. LESSEE will establish and maintain utility and telephone service in the name of the Washita Theater [sic]. **LESSEE** will be responsible for paying **CDRA** all payments for utilities and telephone service in a timely manner.

According to the customer account history for the Washita Theatre, two months after the lease agreement had been signed, 4 Wall Entertainment (now Bijou Entertainment) began skipping monthly utility payments.

Based on the language in the lease agreement, the city administrator or “acting city administrator” was responsible for reporting noncompliance with the terms and conditions of the agreement to the CRDA Board.

Section 14 of the lease agreement reads in relevant part:

...Should it be alleged that the **LESSEE** is in default in any covenant or condition of this **LEASE AGREEMENT** the City Administrator shall investigate such alleged default in whatever manner and using whatever resources he deems to be advisable and necessary. After concluding such investigation the City Administrator shall prepare a confidential report and present such report to **CDRA** Board of Trustees... [emphasis in the original]

From our review of minutes, we found the nonpayment of utilities had been addressed on only a few occasions. Nonetheless, even when the matter was discussed and a motion approved, there appeared to be no follow-up action, no enforcement by the mayor/acting city administrator, and no consequences for the lessee, as a result of the motions approved.

On December 6, 2010, the theater account had an unpaid balance of \$18,700. The December 6, 2010, CDRA meeting minutes reflected some sort of an apparent verbal agreement had been made between NCUA general manager Damon and theater representatives. The minutes reflected:

General Manager’s Report: Manager Damon reported that he had spoken with the theater management about the utility payment and that they would pay at least \$500 a month on utilities. He reported that work had started on the theater façade today.

No payment was made to the account in December, ending calendar year 2010 with an unpaid balance of \$19,522. Over the next 12 months (calendar 2011) payments were posted to the account totaling \$4,500 rather than the agreed upon \$6,000, indicated in the meeting minutes.

Because the monthly billing amounts for the period averaged over \$800 per month, the account balance increased from \$19,522 to \$24,816. We noted no payment at all was made for 3 of the next 12 months.

Several months later, on April 4, 2011, while the past due balance was still at \$21,230, the CDRA Board passed a motion recommending the NCUA write off \$5,000 of the unpaid balance. The minutes incorrectly reflected that the remaining balance after the write-off would be \$15,000. The CDRA Board further recommended additional conditions of the write-off

would include payment of 75% of the outstanding balance with the remainder to be paid within 60 days.

On May 2, 2011, the theater's unpaid balance had increased to \$21,745 when the NCUA Board voted to approve the CDRA recommendation of writing off \$5,000 of the unpaid balance. The NCUA minutes did not include the additional recommendations concerning the payment of 75% of the remaining unpaid balance nor the balance being due in 60 days. The NCUA minutes read in relevant part:

Motion by Dennis Vermillion, seconded by Steve McLaughlin, to approve write off of \$5,000.00 for Cordell Development & Redevelopment Authority utility costs at the theater by recommendation of sub-committee and vote of CDRA Board on April 4, 2011. Vote called: Aye: McLaughlin, Dunlap, Wiest, Penner, Patton, Oliver, and Vermillion. Nay: None. Motion approved: 7 aye; 0 nay

Although a \$5,000 write-off was approved by the NCUA Board, the account history did not reflect the write-off amount had been applied to the account.

In early July 2011, the unpaid balance for the theater account had increased a little to \$21,881. On July 5, 2011, the theater utilities were somewhat addressed again by the CDRA. The minutes read:

Trustees Remarks: Trustee Dunlap stated that the Trust needs to move on with finding new management for the theater if nothing is done by Charles.

On July 18, 2011, the unpaid balance for the account had increased to \$22,537. The July 18, 2011, CDRA minutes discussed the theater account but only peripherally. The minutes reflected:

General Manager's Report: Manager Damon reported that Thursday night would be the midnight premier of Harry Potter. He stated that the theater had paid their utility bill for July and the box office.

We find it noteworthy the above paragraph in the minutes reported the theater had paid its "utility bill for July" while not mentioning the \$22,537 outstanding balance still owed. Moreover, the theater management had not complied with the earlier apparently verbal agreement to pay the \$500 per month having made no payment in either February or April 2011.

In an interview, Mayor/General Manager Damon indicated that since the City owns the theater “it really doesn’t pay for the electric [sic],” apparently meaning the City doesn’t incur a cost if the theater contractor does not pay its bill.

We observed that the City/NCUA does purchase electricity from its wholesaler and that there is a *direct* cost for the electricity sold to the theater operator. It is not only the “cost” of delayed or lost revenue from the unpaid bill due to the NCUA, but also the fact that the City/NCUA pays for the electricity sold to the theater that is relevant.

We further disagree with Manager Damon’s assessment. Section 7 of the contract between the CDRA and 4 Wall Entertainment, previously cited but included here for convenience, makes the situation clear:

7. UTILITIES. LESSEE will establish and maintain utility and telephone service in the name of the Washita Theater [sic]. LESSEE will be responsible for paying CDRA all payments for utilities and telephone service in a timely manner. [Emphasis added]

Based on the contract language, and upon the actions of both the CDRA and NCUA Boards, the theater is responsible for “all payments for utilities and telephone service in a timely manner.”

As of July 17, 2012, the unpaid balance for the theater’s utility account had increased to \$25,959.

Conclusion

There appeared to be a general lack of concern or effort on the part of the City/NCUA administration in attempting to collect the utility payments for the theater or holding the lessee accountable as provided for in the contract.

In July 2008, the unpaid balance on the account was \$941. The unpaid balance has steadily increased in what amounts to a perpetual loan between the CDRA/NCUA trust authorities and a private for-profit entity, which exceeds \$25,000 as of the end of fieldwork.

Although there appeared to have been some sort of negotiations concerning the utility bill payments at least as far back as December 2010, the CDRA board, as the Lessor, has failed to enforce the provisions of the contract concerning the payment of utility services, and the NCUA board has failed to enforce its own policies concerning delinquent bills.

Finding **Of the \$274,900 received in grant funds for restoration of the theater, we believe most would not be required to be returned in the event the theater is sold.**

The concern was raised that if the theater is sold, the federal and state granting agencies may require some of the \$274,900 grant proceeds to be returned. We contacted the five granting agencies, and all but one indicated that there was no requirement to refund the grant proceeds.

The City received \$99,500 from the United States Department of Agriculture (USDA). A spokesman for the USDA indicated any repayment amount would be based on the value of the items purchased from the grant. This response is more or less consistent with OMB Circular A-133, Part 3, Compliance Requirements, which includes the following in relation to equipment purchased with federal funds:

When equipment *with a current per unit fair market value* of \$5,000 or more is no longer needed for a Federal program, it may be retained or sold with the Federal agency having a right to a proportionate (percent of Federal participation in the cost of the original project) amount of the *current fair market value*.
[emphasis added]

With regard to the sale of real property, if the theater building itself was sold, the following may apply:

When real property is sold, sales procedures should provide for competition to the extent practicable and result in the highest possible return. If sold, non-Federal entities are normally required to remit to the awarding agency the Federal portion (based on the Federal participation in the project) of net sales proceeds.

The above two federal grant requirements would apparently only apply to the USDA portion of funding, and only in relation to the USDA’s overall “participation in the project.”

In regard to any potential sale of the theater’s equipment or furnishings, the requirement only applies to the current fair market value of *per unit* items “of \$5,000 or more.” In other words, equipment items that sell for less than \$5,000 per unit *in an “arms-length” competitive bid process* that determines the “current fair market value” would be exempt, and the sale proceeds could be retained by the City.

Considering that with the movie theater industry in general moving towards the digital format for movie delivery rather than the old film

format, the likelihood of any obsolete Washita Theatre equipment and furnishings be worth more than \$5,000 per unit, would seem improbable.

Finding

There were discrepancies between the theater revenue reported to the CDRA Board and the revenue reflected on the movie logs prepared by the theater manager. The current contract has no provision, such as an audit clause, to ensure that theater profit and loss statements presented to the CDRA Board are accurate.

According to the terms of the lease agreement, Bijou Entertainment Inc. was required to pay CDRA 20% of the net non-concession revenue as consideration for renting the building and equipment. Bijou Entertainment Inc. was also required to submit a monthly profit and loss statement to the Board.

Section 13 of the lease agreement provides:

13. **PAYMENTS.** By the tenth of each month **LEESSEE** shall pay to **CDRA** as rent an amount equal to twenty percent (20%) of the net non-concession revenue for all the preceding calendar month. Net non-concession revenue is gross non-concession revenue less any rents, fees, royalties, or other costs of acquiring movies (in whatever format) paid to movie producers, sellers, or distributors, and less sales tax collected as part of gross sales. Gross non-concession revenue is 1) all receipts from the sale of tickets, 2) all rents, user fees, or charges for special events or showing, or for use of the facility, and 3) any other receipts from any source whatsoever except the sale of concessions. **LESSEE** will provide to **CDRA** by the 15th of the following month a non-concession revenue profit and loss statement. [emphasis in the original]

The amount of monthly rent owed by Bijou was based on percentage of the net revenue reflected on statements prepared by Bijou, with no means for the CDRA to verify or independently confirm the rent due. Because rent owed by Bijou was based on figures compiled by Bijou, there is an inherent risk that the revenue reported might be understated to the benefit of the contractor. For these reasons, we found it worthwhile to select a sample of the information on the statements and trace the sample to supporting documentation.

We obtained the movie logs from the *then* manager of the theater and the profit and loss statements submitted to the CDRA. Both the logs and the statements provide the gross sales for each movie shown. Shown below is

an excerpt from the statement presented to CDRA showing the gross sales for the movie Hangover II.

FEATURE:	Hangover II		
PLAYDATE:	June 17, 2011		
GROSS:	\$613.00		
FILM RENTAL	40%		
	Terms \$200 vs 40%		\$245.20

Shown at right is an excerpt from the movie log for the same Hangover II movie. The gross ticket sales reported to CDRA for Hangover II was \$613.00, while the movie log showed gross ticket sales of \$1,030.00.

Therefore, there was an approximate 40% difference between ticket sales reported to the CDRA and what Bijou's internal report showed as ticket sales.

Hangover 2	Total 1886.75
Canns, 856.75	Ticket 1030.00
214 People	Vips 7

For the period February 2011 through March 2012, we compared gross ticket sales reflected on the statements provided to the CDRA to the ticket sales shown on the theater manager's movie logs. The manager's movie logs showed gross ticket sales of \$80,474, while the statements provided to the CDRA showed gross ticket sales of \$39,621, which is a difference of \$40,853, or 51% less for the 14 month period. As previously mentioned, the rent paid to the CDRA was based on the \$39,621 figure reported to the CDRA by Bijou, and not the \$80,474 figure from the manager's logs.

OSAI had no authority to inquire further of Bijou Entertainment's private internal financial reporting or procedures, but the comparison illustrates the lack of accountability and inadequate contract provisions in place to protect the interests of the CDRA in the theater's operations and the revenue generated. Based on our comparison, the lessee may owe significantly more rent than what has been reported and paid, in addition to not complying with the contractually required payment for utility services.

Recommendation

We recommend the CDRA/NCUA boards begin enforcing the provisions of the contract and NCUA utility billing policies and start collecting, by whatever legal means necessary, all past due utility service balances owed

by Bijou Entertainment, Inc. Since it seems unlikely that Bijou will pay its bill, and it may have underreported and underpaid its rental fees due, the CDRA board should probably consider other options for the use or lease of the building.

OBJECTIVE VI: Review FEMA-related expenditures (expanded to other grant issues).

Background

This was the fifth topic or issue requested to be reviewed by the City Council. There was a question concerning some FEMA funds that have been carried forward year to year for a lengthy period of time.

Mr. Gary Jones, the State Auditor and Inspector, was present at a “town hall meeting” on February 9, 2012. At this meeting, there was additional discussion from citizens concerning some other grant funds that were intended to repair the Carnegie Library building foundation, but the foundation was never repaired.

While on-site during fieldwork, we expanded our test work and review to include the Methamphetamine Prevention Initiative grant (Meth grant). This grant was a more recent grant contract that had occurred *during* the requested audit period.

Also, there was an allegation concerning the grant. We noted that the City’s grants administration office had been bypassed and was not used for the administration of this particular grant. We considered that circumstance to be a “high risk” indicator.

FEMA GRANT ACCOUNT BALANCE

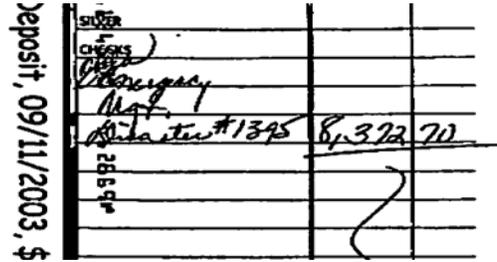
Finding

The City does not have extra or unexpended disaster funds from older FEMA disaster grants. The alleged balance of FEMA funds appears to be a delayed portion of the state’s share of disaster funding that was reimbursed to the City in September 2003, and the balance belongs to the City.

Prior to our audit period, the City of New Cordell had several natural disasters during 2001 and 2002. The City received reimbursement funding from the Federal Emergency Management Agency (FEMA) through the Oklahoma Department of Emergency Management (ODEM). After the 2001 and 2002 disasters, the city opened a Disaster Fund bank account with funds transferred from the NCUA and the City General fund. These monies were expended by the City for repairs initially, and then the City was reimbursed by FEMA and ODEM.

Records obtained from the City’s grants administration office show the September 1, 2003 bank balance, was \$85. In September 2003, there were two deposits totaling \$9,373, bringing the balance for the Disaster Fund bank account to \$9,458. According to the deposit slips, the state warrants received were from “Emergency Management.”

One deposit slip had the notation “Disaster #1395” to identify which disaster the reimbursement was for. The second deposit was for \$1,000 even, but did not specify a disaster number.



According to ODEM’s website, Disaster #1395 was a declaration for an event that occurred in October 2001. These monies appeared to be the State’s share of disaster monies to be paid to the City, although the \$1,000 may be a Federal amount for “administrative” reimbursement.

As of May 31, 2012, the balance in the Disaster Fund was \$10,476. That amount includes the original balance from September 2003, plus \$1,018 of accumulated interest earned.

The only FEMA disaster during our audit period was caused by heavy rains and flooding in 2007. The City received FEMA funding to fix several bridges damaged by the flooding and to repair damage to the police department’s roof.

The *estimated* cost (less insurance) to repair all sites was \$94,187. FEMA reimbursed 75% (\$70,640) of the estimated costs, the state reimbursed 12.5% (\$11,773) of the estimated costs, and the city was responsible for the last 12.5% (\$11,773). The City was also reimbursed 3% of estimated costs for administrative expenses. The *actual* costs totaled more than the estimate, which increased the City’s portion of its final expenditures.

Disaster Location	Total Expenditures	Federal Reimb 75%	Federal Admin Reimb 3%	State Reimb 12.5%	City’s plus Insured Costs
Market St. Bridge	\$21,903	\$15,850	\$634	\$2,642	\$2,777
9 th & College Bridge	8,848	6,636	265	1,106	841
8 th & College Bridge	4,891	3,668	147	611	465
14 th St. Culvert	19,125	12,585	503	2,097	3,940
Wastewater Plant	7,838	5,878	235	980	745
Police Dept Roof	55,529	26,023	1,041	4,337	24,128
Total	118,134	70,640	2,825	11,773	32,896

Recommendation The “FEMA Grant” bank account balance should be prorated and transferred to whatever City/NCUA fund or funds had originally been used to pay for the disaster related bills. As an alternative, by resolution, the funds could be transferred to the City’s Grants Fund to be utilized as “cash match” for the next grant opportunity or need.

HUD ECONOMIC DEVELOPMENT (EDI-SP) GRANT FY04 – FY10

Finding **Grant records indicated the amount budgeted for the Cordell Public Library roof repair and the Carnegie Library/Washita County Museum building foundation repair was mostly re-allocated to the swimming pool line item included in the City’s 2004 HUD grant budget.**

The City of New Cordell received a HUD Economic Development Grant in 2004 for improvements to the City of New Cordell's infrastructure in the original amount of \$241,421. The original budget for the grant included \$4,300 for roof repairs to the Cordell Public Library building and \$20,000 for repairs to the *foundation* of the Carnegie Library/Washita County Museum building.

Through the City’s grants administration office, we were given letters from HUD approving the repurposing of grant funds on May 6, 2006, August 16, 2006, and September 3, 2009. The Cordell Public Library roof apparently only needed to be patched and the work was completed by City employees.

The monies budgeted for Cordell Public Library roof repair and the Carnegie Library Museum foundation repair were “repurposed,” meaning re-allocated or re-budgeted for, and added to the approximately \$40,000 original budget allocated for repairs and improvements at the City swimming pool and pool building.

At the June 7, 2010 City Council meeting, Wayne Boothe asked about grant money that was received to repair the museum and Mayor Damon stated that “three or four years ago the Council redirected the money” and that the repairs to the museum could be made from “General Fund Maintenance.”

By the fall of 2010, the maximum time period for the HUD grant had expired. On September 22, 2010, unused grant funds in the amount of \$12,353 were reverted back to HUD.

Again on April 19, 2011, Mayor Damon reported during the Cordell Development and Redevelopment Authority meeting:

“...the City Employees will be doing concrete work to stop leakage in the southeast cellar windows. He reported that there is no HUD funding. He stated that the funding for the Carnegie building had been redirected a long time ago, and the grant was closed out.

Based on our review of the HUD records supplied by the City’s grants administration office, the original grant budget allocations for the library and Carnegie buildings in question were reallocated. Part of that reallocation occurred in budget adjustments to provide more funding to the Police Building, Community Center, and Swimming Pool projects in the May 2006 first budget modification, and the balance of the Carnegie building amount (\$12,169) was moved to the Swimming Pool projects in the September 2009, third budget modification.

These modifications were approved by HUD officials. We noted that the Swimming Pool project that had an original budget of \$39,991 was increased by budget modifications to \$91,706, with expenditures of \$79,353. We also noted that the funds “reverted” back to HUD (\$12,353) were *from* the Swimming Pool project and similar to the amount shifted from the Carnegie Building to the swimming pool grant line item in 2009.

We observed the HUD reversion warning letter notifying the City that the grant funds (\$43,523 at the time) had to be disbursed by “September 30, 2010,” was dated January 4, 2010, giving the City nearly nine full months to finish its swimming pool project. The letter further stated that September 30, 2010 (the end of the federal fiscal year), was a deadline “by operation of law,” and “This is a statutory deadline and requirement that cannot be waived or extended by the Department.”

The City had apparently made some progress on the swimming pool during 2010, since only \$12,353 had to be reverted by the deadline, rather than the \$43,523 mentioned in the HUD letter.

WASHITA METHAMPHETAMINE PREVENTION INITIATIVE

Background for Meth Grant

On March 3, 2003, the City Council passed a resolution establishing a grants administration office for managing all grants and submitting applications and financial information to the Council.

Resolution 2003-03 provides in relevant part:

WHEREAS, to avoid grantor sanctions that may result in the repayment of funding due to audit questions and disallowed grant costs, it is in the best interest of the residents of the City of New Cordell to have a systematic process for planning each grant application and for completing all of the requirements of each award, and [emphasis in the original]

WHEREAS, grants management protocol necessitates that the City of Cordell City Council adopt a resolution in support of each grant application before the application is submitted to the grantor agency for their consideration. [emphasis in the original]

NOW, THEREFORE, IT BE RESOLVED by the City Council of the City of New Cordell that the **Mayor and City Administrator** are hereby authorized and directed to establish a single City of Cordell grants management function that will be responsible for coordinating all grant application planning, City Council approval, performance, accounting, reporting, audit, and record keeping activities for each application and award. [emphasis in the original]

The City of New Cordell received a grant from the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) to promote and/or advocate the prevention of methamphetamine addiction in Washita County school districts. The initial grant was for \$67,000 for the period July 1, 2008 to June 30, 2009. The City received additional funding of \$20,000 for FY10 and \$40,000 for FY11, with total approved funding of \$127,000, over the approximately three years the grant was funded. The source of funding was CFDA # 93.243: Substance Abuse and Mental Health Services-Projects of Regional and National Significance.

The Washita Methamphetamine Prevention Initiative (WMPI) was an ODMHSAS funded program in which the City partnered with the Washita Health Action Team (WHAT) to implement strategies to address the methamphetamine problem in Washita County. The WHAT developed a subcommittee for methamphetamine prevention whose members implemented the program “Too Good for Drugs” in Washita County school districts.

There was a monitoring visit and contract review done by three ODMHSAS staff members on January 22, 2009, within the first seven months of the original grant contract. A report dated March 2, 2009, was issued which included comments on pages 7 and 8, under VI. File Review, such as:

- B. Financial Files, “There were no financial files available for review. Receipts and travel reimbursements/logs were not available. *Comment: Financial filing needs to improvement.*” [emphasis in the original]
- C. Prevention Initiative, “The Washita Methamphetamine Prevention Initiative files were not available for review. *Comment: Needs improvement.*” [emphasis in the original]
- E. Material Review, “No file to show if reports were in correct format and submitted on time...Coalition files showed proof of attendance and collaboration but no minutes available...No documented financial records to show receipts and travel reimbursement/log...Personnel and timesheets were not available...Project/community files were not available. *Comment: Materials reviewed need improvement.*” [emphasis in the original]

The ODMHSAS does “spot checks” of its federal grant sub-recipients on a random basis each fiscal year as part of its monitoring program to demonstrate compliance for *its* federal grant pass-through programs. According to ODMHSAS officials, no other monitoring visit was done on the City of New Cordell FY09 contract or its two fiscal year extensions.

Since the City had not expended more than the \$500,000 threshold in federal grant funds in any one fiscal year since FY09, an audit of federal grant expenditures done in compliance with OMB A-133 was not required and was not performed during the routine annual audits.

Finding

Neither the application for, nor the actual contract for the methamphetamine prevention grant, was approved by the Council, contrary to City Council Resolution 2003-03.

Resolution 2003-03 directed the City Council to “adopt a resolution in support of each grant application,” prior to submitting the application to a Federal or state grantor agency for consideration.

We reviewed Council minutes and found no discussions, indications, or resolutions that the application(s) for the original grant or the two extensions of the meth grant contract were presented to the Council for approval. The contract and budget modifications were signed by Mayor Damon only, with no indication of City Council involvement during the application and/or contracting process.

Finding

The grants management office was not included nor involved in the methamphetamine prevention grant, as required by City Council Resolution 2003-03. The City Council appeared to be excluded from budgetary, accounting, and reporting matters related to the grant, in violation of the Oklahoma Open Meeting Act.

Based on the language in Resolution 2003-03, the grants management office was established in order to provide an organized process of grant administration to ensure compliance with federal, state and local regulations, and to avoid disallowed costs.

In accordance with Resolution 2003-03, the City created a grant management office consisting of two part-time hourly employees. The duties of the grants management staff included grant applications and grant award management services, overseeing assigned grant activities, and performing other duties assigned by the mayor. The grants management office also provided some additional internal controls and research to ensure potentially complex federal and state grant regulations were being followed.

Although required by Resolution 2003-03, the City's in-house grants management staff members were not used to administer the methamphetamine prevention grant. Consequently, the methamphetamine prevention grant did not appear in the reports by the grants management office that were submitted to the City Council.

Although there were a few mentions of the meth grant initiative in the "mayor's report" section of council minutes, the City Council appeared to be excluded from grant contracting, grant financial planning activities and the grant budget allocation process.

We found no discussion or motions in the City Council's minutes to indicate knowledge or approval of the WHAT organization to administer provisions of the ODMHSAS grant contract. There was no City contract with WHAT to document the nature of the duties and responsibilities of that organization concerning the administration of portions of the ODMHSAS grant contract for the City.

We found no indication in the minutes or other grant documentation indicating that the *ODMHSAS contract review report* issued in March 2009, was presented or reported to the City Council, or that the "corrective action" response requested by ODMHSAS was ever presented to the City Council for their review and approval, prior to the response being sent to the ODMHSAS.

We believe the failure to provide the grant contract, other meth grant information, and the March 2009 ODMHSAS report, to the City Council for its review and oversight to be violations of the Oklahoma Open Meeting Act.

However, we did find that expenditures for the “meth grant” were presented to the City Council for approval through the General Fund section of the “consent” agendas.

Finding

The mayor and a school counselor/grant coordinator received questionable payments from grant funds. Timesheets supporting hours worked were not submitted, as required by the grant contract.

There was a line item in the original contract budget in the amount of \$10,400, for a “Contractual Meth Grant Coordinator” which contained the following description:

Contract for a minimum 4 hours per week totaling 208 hours per year for the Grant Coordinator to attend local methamphetamine grant meetings, attend local C-WHAT Coalition Meetings, order supplies and materials and otherwise manage budget, submit quarterly reports, coordinate local community partners, ensure completion of NOMS evaluation.

We could not determine whether or how Mayor Damon initially appointed himself grant coordinator. We found no documentation in the council minutes indicating his appointment was authorized by the City Council.

The ODMHSAS contract review performed in January 2009 indicated Damon held the position of grant coordinator since the start of the grant contract, July 2008. Also in the report, ODMHSAS recommended that Damon delegate some of his grant duties and pay a stipend to a staff member or a member of WHAT.

The recommendation reads as follows:

As the fiscal agent and WMPI grant coordinator stated that he has too much workload, ODMHSAS recommends that the fiscal agent delegates some of his duties and pay a stipend to a staff [sic] at the mayor’s office, or a member of the WHAT.

Mayor Damon subsequently submitted a letter to ODMHSAS transferring the contractual coordinator position to Angela Caler, a school counselor and a member of WHAT.

The letter reads in relevant part:

...this letter stands to represent the City's intent to modify our contractual agreement to transfer the contractual coordinator position from Mayor Damon to Angela Caler, one the county's school counselors and an active member of the WMPI coalition (Ms. Caler is also the vice-chairperson of the Washita Health Action Team).

After the above response letter was written to ODMHSAS, Damon paid himself \$1,500 for the "meth grant coordinator contractual stipend." Although the claim was dated "3-25-09," there was no documentation indicating the time period or how the payment amount was calculated.

The original FY09 budget had a line item for \$2,000 stipends to be paid to the five school counselors for their time, and a line item for a "contractual meth grant coordinator" in the amount of \$10,400.

Subsequent to Caler being named coordinator in the City's response letter to ODMHSAS and after the one \$1,500 "coordinator" payment to the mayor, Damon also received \$1,000 payments in December 2009, June 2010, and August 2010, for grant "administrator fees."

We found no documentation indicating how Damon became the grant administrator, nor did we find a budgetary provision for a "grant administrator" in addition to a "grant coordinator." We also noted Damon was approving the purchase orders for these payments to himself and/or the "approved by" signature line on the purchase orders was left *unsigned*.

The contract provides in relevant part:

Time sheets from each staff member, detailing the number of hours worked per day, signed and dated by supervisor and staff member.

There were no timesheets in the meth grant folder of expenditure paperwork documenting hours worked, for the coordinator or administrator amounts paid to Damon and Caler, as required by the grant contract.

Also in March 2009, Damon and Caler both received payments of \$2,448 that contained the description, shown at right, with no supporting documentation attached.

Meth Grant Contractual Fees
FY 08-09
40% of Indirect Costs

The contract defines indirect costs as follows, “*Indirect costs are costs incurred for common or joint objectives that cannot be identified specifically with a particular project, program, or organized activity.*”

However, “indirect costs” is a *specific term* in federal grant rules and regulations and requires substantial supporting documentation and a prior approval by the state or federal grantor. Federal grant “indirect costs” are intended to compensate the *subrecipient entity* for general costs, such as administrative payroll, utility bills for the entity offices, general liability insurance, and other costs that may be “allocated” by the entity to its various departments and functions, including certain federal grant programs that authorize such costs.

In the experience of the OSAI-SIU, we have never seen federal grant payments to *individuals* for “indirect costs.” We have seen only claims by the public entity “subrecipient,” claiming indirect costs for the entity itself.

We observed that the City’s grants administration office was just twenty feet or so down the hall from the mayor’s office. If there was any question about what the contract term “indirect costs” meant, the City had the “grants” administrative staff present that would have known or could have researched that answer.

Finding

The former city treasurer received questionable payments with grant funds. Compensation was paid with no budget provision. Timesheets supporting hours worked were not submitted, as required by the grant contract.

Carrie Davis, former city treasurer, also received additional compensation for “administrative assistant” fees. As with Mayor Damon, Davis also received \$1,000 payments in December 2009, June 2010, and August 2010, for a total of \$3,000. There was no grant contract provision for the “administrative assistant” fees paid to Davis, although the ODMHSAS letter did recommend a “stipend” to “a staff [member] at the mayor’s office.

We would observe that the City had *experienced* grant administrative staff in place for this function and question why *they were bypassed again*, if the ODMHSAS recommended more staff assistance for the meth grant program coordination. This seemed to us to be a deliberate effort to avoid accountability or oversight by anyone with sufficient knowledge of federal grant rules and regulations to question the way expenditures were being handled, recorded, or reported.

There were no timesheets in the meth grant expenditure folder documenting the hours worked by former City Treasurer Davis, as required by the grant contract.

Finding **There was insufficient reporting of taxable income from the meth grant program.**

The additional compensation paid to Mayor Damon (\$6,948) and former City Treasurer Davis (\$3,000) was not reported as “wages or salaries” on their 2009 or 2010 Form W-2s.

The amounts paid to the various school counselors exceeded the \$600 threshold for IRS reporting as “nonemployee compensation” and consequently should have been reported on Form 1099s. We found no documentation indicating Form 1099s were issued for the \$10,448 paid to various school personnel for 2009, including Caler.

We did find Form 1099s were issued to report nonemployee compensation paid to school personnel from meth grant funds for the tax year/calendar year 2010.

Finding **The mayor submitted mileage claims in addition to his vehicle allowance and the City purchased fuel for his personal vehicle. Fuel purchase dates coincided with dates that mileage was claimed for reimbursement for the meth grant. Mileage reimbursements did not contain the documentation required by the grant contract.**

In addition to Damon’s \$300 monthly vehicle allowance, an average of \$364 a month (in 2011) in fuel purchased for his personal vehicle, mileage reimbursements from SWODA and MODA, Mayor Damon reimbursed himself from meth grant funds for mileage on seven occasions totaling \$865.

For July 2009 through August 2010, we compared fuel purchase dates with dates in which mileage was claimed for reimbursement. In five claims, documentation did not include the dates traveled, so we were unable to perform a comparison. In the two cases that travel dates were provided, fuel was also purchased on the same dates as shown below:

- On July 24, 2009, Damon purchased 18.33 gallons of fuel at cost of \$38.85 and claimed grant reimbursement of \$119.47 for 205.98 miles travel to a meth prevention quarterly meeting also on that date.

- On August 3, 2010, Damon purchased 11.34 gallons of fuel at a cost of \$28.53 and claimed grant reimbursement of \$116.80 for 201.38 miles travel to the Crystal Darkness meeting also on that date.

The grant contract included the following stipulation for travel reimbursements:

Travel reimbursement documentation must include the following: record of mileage must include, staff name and signature, supervisor approval signature, destination to and from, date(s) of travel, time entering and exiting travel status, reason for travel...

The example to the right shows that the mileage claim did not contain documentation required by the grant contract. A purchase order/requisition form and claim form were used to document travel in lieu of some type of travel form showing purpose, date(s), to and from destinations, time entering and exiting travel status, all required signatures, etc.

reimbursement for mileage	.55	131.91
Prevention Reception @ OU		
239.84 miles		
Meal Grant		

Damon was both submitting and effectively approving his own travel reimbursements. Moreover, none of the travel reimbursements for any of the City or schools personnel charged to the grant complied with the provisions of the grant contract, which specifically required travel to be documented in accordance with the Oklahoma State Travel Reimbursement Act, **74 O.S. § 500.1** et seq.

Finding

Meal expenses were reimbursed and equipment was purchased, contrary to the grant contract.

The grant contract indicated that meal purchases were not an allowable expense, except when paid as “per diem,” which requires overnight travel status. Although not allowed by the grant contract, three counselors were reimbursed for meal expenses totaling \$69.

The purchase of equipment was also specifically listed in the grant contract as an “unallowable” expense. We found approximately \$5,878 in equipment purchases, likely labeled as supplies. Included in the equipment

purchases were four iPads with accessories at a cost of \$2,384, a \$790 digital camera, and \$170 for a telephoto lens. Other equipment purchases are listed below:

Date	Vendor	PO	Amount	Description
9/29/09	Quill	M10-0020	\$359.99	Instrument Cart
5/19/2010	Staples	M10-0058	\$239.96	4 digital cameras
5/19/2010	Staples	M10-058	\$349.99	Sony camcorder
No Date	Staples	M10.98	\$108.84	Tripod
8/21/10	Staples	M11-0012	\$449.94	3 Officejet 6500 printers
8/21/10	Staples	M11-0012	\$119.94	6 portable flash drives
8/21/10	Staples	M11-0012	\$129.99	Portable external hard drive
8/21/10	Staples	M11-0012	\$99.99	Brother label printer
8/21/10	Staples	M11-0012	229.97	1 shelving unit
9/27/10	School Specialty	M11-0020	\$445.67	Cutting Machine

Mayor Damon signed the purchase orders for the purchases of these equipment items and/or allowed them to be purchased in spite of the specific contract provision against the purchase of “equipment.” The City Council ultimately approved the equipment purchases through the General Fund consent agenda, although they had not been given the details of the grant contract provisions nor approved the actual grant contract or the two extensions of the contract in open meetings.

During the course of our investigation ODMHSAS officials were asked about the equipment purchases and they indicated they were not aware that equipment was purchased, likely because the equipment purchases were reported to ODMHSAS as supplies or included in the amounts reported in some other budget line item or items.

Conclusion

The City Council established the grants management office for a reason, which was to ensure potentially complex federal and state grant guidelines, rules and regulations were followed. This grants management office and the control(s) established by the City Council with Resolution 2003-3 were effectively bypassed and circumvented by Mayor Damon.

Apparently acting on his initiative in representing the City of New Cordell, Mayor Damon signed the grant contract with ODMHSAS and signed the majority of documentation related to grant expenditures, budget allocations, etc. This “management override of controls” likely contributed to the questioned and potentially unallowable costs, contrary to specific provisions in the grant contract.

We identified \$28,867 in questioned costs which are summarized below:

- \$3,000 paid to Mayor Damon for grant “administration” or “administrative fees” in which there were no timesheets submitted documenting hours worked, as required by the grant contract.
- \$1,500 paid to Mayor Damon for grant “coordinator” in which no timesheets were submitted, as required by the grant contract.
- \$3,000 paid to former City Treasurer Carrie Davis for grant “administration” with no timesheets documenting hours worked on the grant program.
- \$8,350 paid to Angela Caler with no timesheets documenting hours worked on the grant program.
- \$2,448 each, paid directly to Damon and Caler for “indirect costs” totaling \$4,896, with no documentation provided to justify or support the City’s *eligibility* to even make a claim for this specific type of federal grant expenditure.
- \$5,878 in equipment purchases, contrary to the grant contract.
- \$2,174 in mileage reimbursements which contained inadequate travel documentation, contrary to the grant contract.
- \$69 in meal reimbursements, contrary to the grant contract.

The above questioned and/or undocumented costs represent approximately 23% of the original ODMHSAS grant contract amount of \$67,000, plus the two contract extensions for \$60,000 more. In addition to the questioned expenditures described above, *we could question the entire amount* of grant expenditures under **25 O.S. § 313** of the *Oklahoma Open Meeting Act*, which states simply, “Any action take in violation of this act shall be invalid.”

Because of what we perceived as a deliberate “management override of controls” and avoidance of the established grants management office, we have recommended this situation to the appropriate authorities for legal review and further investigation, as warranted.

Recommendation

Interviews with the City’s CPA audit firm and observations by our audit team indicated the present grants part-time administrative staff members maintain good grant records for a small public entity, better than many county governments routinely audited by OSAI. We recommend the City

make use of its in-house grants staff for ALL federal and state grants administration, in accordance with its already established policies, as prescribed in Resolution 2003-03.

City Response

The mayor contended in an email communication that the “key issue” was that the City of New Cordell was “not the grantee” but rather was operating merely as a “fiscal agent,” and “Neither the Council nor I had a voice in how the grant was spent.”

We do not agree, since virtually all the paperwork reflected that the City of New Cordell was the subgrantee and specifically the “contractor” to the ODMHSAS. Mayor Damon signed grant documentation as “Mayor” Damon. The grant’s expenditures were processed through the City’s General Fund/bank account on City purchase orders, paid with City check/warrants that were signed by city officials, and were reimbursed by ODMHSAS to the same City General Fund/bank account.

As such, *the City* was obligated to comply with all provisions of the ODMHSAS contract and all federal rules and regulations associated with the particular source of federal funding for the meth grant contract. The City *is* responsible.

OBJECTIVE VII: Review of other issues, including but not limited to the disposition of outdated and/or discarded city equipment, and adherence to existing policies and procedures

The sixth and final topic identified in the request letter from the City Council included a review of “other issues,” including the City’s policies and procedures regarding disposal of city equipment. The issues related to the mayor’s various city/NCUA administrative positions and salaries were previously addressed in Objective I, at the beginning of this report.

INVENTORY

Background

On March 1, 2004, the Council passed Ordinance 2004-01, establishing the rules for inventory and amending the City Code. According to the 2004 ordinance, the City Code of Ordinances, Section 7-206 makes *the mayor* responsible to take and to keep current an inventory of all City property. The mayor is responsible for developing a system for maintaining an inventory and inventory control for the parts, supplies, and equipment routinely used by City offices and departments. The mayor is also responsible for removing surplus property, which has been sold, discarded, or otherwise disposed, from the inventory list.

Section 7-206 also establishes the following methods for disposing of City property.

- The mayor to dispose of any single item or lot of items when the value does not exceed \$1,000.
- The council may authorize the mayor to trade, sell at a price, offer for bid, or to donate for charitable use any single item or lot of items when the value exceeds \$1,000, but less than \$2,500.
- Any surplus item or lot of items exceeding a value of \$2,500 shall be offered for sale by competitive bidding or sold at a price established by the council. The price established may not be for less than the price the city paid to acquire the items.
- The mayor may consider unsuccessful attempts to dispose of items as a basis to revalue the item and attempt to dispose of an item at a lesser value.
- Items determined to have no value may be disposed of as the mayor shall determine.

Finding **The mayor did not maintain a current inventory of City assets, as required by ordinance 2004-01.**

We asked Mayor Damon if he had an inventory list, he told us he should have one for insurance purposes. Although Mayor Damon thought he had an inventory list, after a second request, he indicated he could not find one.

Since Mayor Damon did not provide us an inventory list, we contacted the City's CPA financial consultant to see if that firm had a list. The City's CPA financial consultant provided us with a depreciation schedule of the City's assets. The depreciation schedule provided was not current, and some items on the list had been previously disposed of by the City.

Upon learning there was not a current asset inventory on file as required, the present city treasurer (not the mayor) requested all department heads to submit a full inventory to her office. On June 25, 2012, she presented our audit team with the inventory lists prepared by the department heads.

The inventory lists contained item descriptions, number of items, and serial numbers or VIN numbers as applicable, but there was no information on date of acquisition, vendor information for the original purchase, or the price of acquisition.

The completeness and accuracy of the inventory lists, which would have required review of a multi-year time frame for additions and subtractions, was not verified, due to time and budget considerations.

Finding **We noted some instances in which the City did not follow the policy for disposing of inventory, as required by Resolution 2004-01**

On August 18, 2008, the council minutes reflected the council had declared a 1960 sewer truck as surplus. At the September 22, 2008 council meeting, the minutes stated the council had asked about the surplus items, and the mayor reported that the sewer truck had sold for \$1,600.

The minutes do not indicate an estimated value of the truck, that the sale of truck had been approved, or how the council wanted the mayor to dispose of the truck, as required by Resolution 2004-01.

While there were many instances of the minutes reflecting items being declared surplus, the minutes did not reflect the estimated value of the

items being declared surplus or the method or methods for how items were to be disposed.

During our audit we did find some older computer equipment in the storage area at city hall. One of the allegations was that obsolete computer equipment had been given to employees and/or others to take home. Without reliable and up to date inventory records, it was not possible to determine whether there may be any of the City's obsolete and/or unused computer equipment missing.

Conclusion The City's policies and procedures for asset inventory have not been followed. The present inventory recordkeeping omits significant and relevant information. Both the inventory system and inventory records need significant attention and improvement.

Recommendation In order to comply with its own ordinance, the city administration should work with the City's CPA financial consultant to merge and update the City's inventory records supplied by the department heads with the financial consultant's depreciation schedule and equipment records there.

All relevant information, including the City's assigned inventory ID number, item description including make and model, serial or VIN number as applicable, date of acquisition, vendor information, purchase price plus additional cost of acquisition, etc., should be included and maintained in its asset records.

The City Council should consider updating their policies and procedures to consider the types of assets to be recorded, the minimum threshold of purchase or estimated value to be tracked by its recordkeeping system, and procedures to periodically (at least annually) check equipment/asset inventory and verify the inventory records are current and accurate.

OTHER CONCERNS

Finding **Some tower lease revenue was deposited to the City's "Grant Fund" bank account.**

As part of the real estate purchase agreement for the new Washita County Jail Facility, the City received \$4,000 for "tower lease" for some antenna space on the City/NCUA's water tower. There was apparently some question as to how this revenue should be handled or where it should be deposited.

The \$4,000 was temporarily deposited in the “inactive” Grant Fund pending further clarification. In a memorandum addressed to the mayor dated August 29, 2011, former City Treasurer Davis indicated the \$4,000 had been deposited into the Grant Fund in December 2009.

The memorandum further indicated that the revenue was being held in suspense until the Washita County Public Facilities Authority had placed some communications equipment on the water tower, and Davis had not received notification of that installation.

We observed the actual clause in the real estate agreement under § 5 (h.) was,

“Purchaser and Seller hereby agree to a long-term lease of the tower space with an agreed rental of \$4,000 inclusive, for an initial term of twenty (20) years, with said amount payable by the Purchaser to the Seller prior to commencement of installation of such equipment.

The wording of the real estate agreement says the \$4,000 was payable “prior to” the installation of any equipment (basically once the agreement was executed). We observe no reason for this \$4,000 to be held in suspense, whether or not any communication equipment is ever installed on the water tower.

Recommendation We recommend this FY10 revenue be transferred to the appropriate fund for the water tower operations or maintenance, likely the NCUA operating fund/bank account.

Finding **There was not an adequate segregation of duties for the municipal court revenues.**

Monies collected for municipal bonds, fines and forfeitures are received at the New Cordell Police Department. Lawana Reyes, Municipal Court Clerk, issues court receipts, posts the amount of the bond and/or fine to the court docket records, prepares bank deposits for the court fund and takes the bank deposits in sealed envelopes to the utility clerk for delivery to the bank.

A single person having responsibility for more than one area of recording, authorizing, custody of assets, and execution of transactions could result in unrecorded transactions, misstated financial reports, undetected errors, or misappropriation of funds. Municipal court revenue is not a material

source of revenue to the City/NCUA, and therefore, this type of finding would not ordinarily be commented on in a routine annual financial audit.

In our (OSAI) experience, municipal court revenues and utility billing revenues are frequently high risk issues due to the often limited number of staff or personnel involved in the collections and deposit processes in small public entities.

Recommendation We recommend a review of the municipal court policies and procedures to see if some additional segregation of duties can be achieved, either additional involvement by others in the reconciling and deposit preparation, or an increased supervision to periodically review and verify amounts deposited with the collection records for the day.

Finding **In FY08, a court fund bank deposit was lost in transit to the bank. The lost deposit may not have been reported to the bonding company to recover the amount lost.**

In late October 2007, Court Clerk Reyes inadvertently left a municipal court bank deposit in her unlocked car while on a brief stop at Clinton. The money bag with the deposit of \$2,139 was found to be missing shortly afterwards while starting the return to Cordell.

A police report was filed with the Clinton Police Department. Reyes agreed to and was given a polygraph test in December 2007, which she passed. The money bag and bank deposit were never located.

When asked if the loss had been recovered from their bonding company, city officials thought that it had, but could provide no documentation of the claim having been filed.

Recommendation We recommend the City contact their bonding company to obtain the documentation of a claim having been filed and/or to request whether it is too late to file a claim on their FY08 public officials bond.

Finding **There was some evidence to indicate the City's computer equipment may have been utilized for the mayor's private sector business and his last political campaign.**

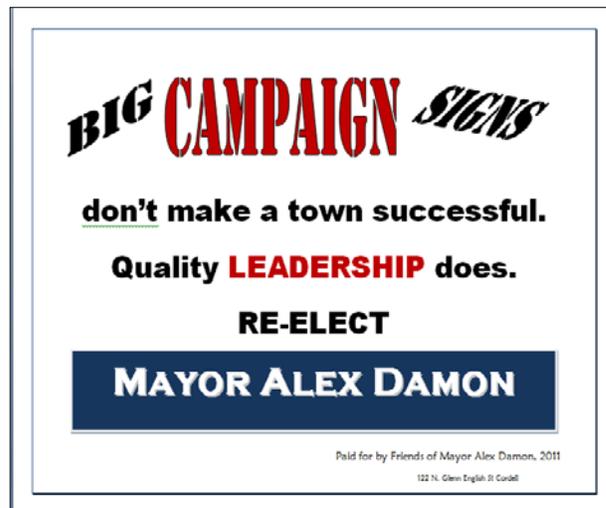
Our audit team requested a data dump of the City’s computers. The data included files from the City computer located in the mayor/acting city administrator/NCUA general manager’s office.

During our review, we noted 32 computer files were invoices for “Alex Damon Entertainment dba the Damon Jackson Band.” We noted a substantial number of the invoices had a “last modified” date falling during regular business hours of the workweek.

In addition to the invoices for what appears to be Mayor Damon’s personal enterprise, Alex Damon Entertainment, we also noted several files were related to the mayor’s 2011 bid for reelection, as shown in the examples below.

We have no means to determine if the files were created on another computer and copied to the City's computer system for printing or storage purposes, or if the City's computer system was being used to create personal business records for Alex Damon Entertainment. Nonetheless, the City's computer system was found to contain personal records related to Damon's private business and his reelection campaign.

Examples of questionable files:



Recommendation We recommend that use of any City equipment for personal business and/or political business be avoided, as a matter of public policy, and to avoid the potential legal issues that may result from misuse or personal use of public property.

DISCLAIMER

In this report there may be references to state statutes and legal authorities which appear to be potentially relevant to the issues 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. Such determinations are within the exclusive jurisdiction of regulatory, law enforcement, and judicial authorities designated by law.



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