



# City of Drumright Special Audit Report July 1, 2000 – June 30, 2006

**JEFF A. McMAHAN, CFE**

OKLAHOMA OFFICE  
OF THE  
STATE AUDITOR & INSPECTOR

## Why the audit was performed

The City of Drumright audit was performed pursuant to the Attorney General's request in accordance with 74 O.S. 2001, § 18f.

## Audit Summary:

- ✓ The pension plan documentation is inconsistent. **Pgs 4, 5, 9, and 10**
- ✓ Retirement Committee duties and responsibilities are not clearly defined. **Pgs 6 and 7**
- ✓ The Trust Agreement appears to assign control of the plan to GAO. **Pgs 7, 8, and 9**
- ✓ The City approved a Plan Document that had not been prepared at the time of approval. **Pg 10**
- ✓ The City Attorney did not review the plan documentation prior to implementation. **Pg 10**
- ✓ The City Manager did become vested at the time the plan was adopted. **Pgs 10, and 11**
- ✓ We question the basis for excluding the City Manager from the OMRF plan. **Pg 11**
- ✓ The City Manager received credit for years of service for which he had been previously compensated. **Pg 12**
- ✓ There is no clear definition of "elected official service". **Pg 12**
- ✓ The City Commission was not aware of all the benefits received by the City Manager. **Pgs 12, and 13**
- ✓ Employees may have been limited to five (5) years credit for the purposes of vesting. **Pgs 13, and 14**
- ✓ The funds were wired directly from OMRF to Ameritas and we confirmed Ameritas received the wired amount. **Pg15**
- ✓ There are no statutory requirements for funding levels of a public pension. The City is following the advice of the Actuary. **Pgs 15, 16, and 17**
- ✓ Salary amounts reported in annual audits include other expenses. It is within the Board's discretion to establish compensation. The Board approves payroll in a lump-sum manner. **Pgs 18, and 19**
- ✓ There is a policy provision for paid time off. Compensation for paid time off is nominal. **Pg 20**
- ✓ Employees do not receive a Christmas bonus. **Pg 20**
- ✓ Reporting the fringe benefit for the employer provided vehicle appears to be an IRS requirement. **Pg 21**
- ✓ Bond proceeds and sales tax appear to be used consistent with Board Resolutions and Propositions. **Pgs 21, 22, 23, and 24**

**CITY OF DRUMRIGHT**  
**CREEK COUNTY**  
**SPECIAL AUDIT REPORT**  
**JULY 1, 2000 THROUGH JUNE 30, 2006**

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This publication is printed and issued by the State Auditor and Inspector as authorized by 74 O.S. 2001, § 18f and 74 O.S. 2001, § 3105. Thirty-five copies have been prepared and distributed at a cost of \$93.00. Copies have been deposited with the Publications Clearinghouse of the Oklahoma Department of Libraries.



STATE OF OKLAHOMA  
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan  
State Auditor and Inspector

December 18, 2006

Honorable Drew Edmondson  
Attorney General  
313 NE 23<sup>rd</sup> Street  
Oklahoma City, Oklahoma 73105

Transmitted herewith is the Special Audit Report of the City of Drumright, Oklahoma. We performed our special investigative audit in accordance with the requirements of **74 O.S. 2001, § 18f**.

A report of this type is critical in nature; however we do not intend to imply that our report failed to disclose commendable features in the present accounting and operating procedures of the City of Drumright.

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 ensure a government, which is accountable to the people of the State of Oklahoma.

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

Sincerely,

  
JEFF A. McMAHAN, CFE  
State Auditor and Inspector

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**INDEX OF SPECIFIC CONCERNS**

The following concerns are presented in italics as they were communicated to us:

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**DRUMRIGHT CITY COMMISSION**

Mayor ..... Cleo Ramsey  
Vice Mayor ..... Brad Cook  
Commissioner ..... Clark Shideler  
Commissioner ..... Scott Barnett  
Commissioner ..... Terry Morrow

**DRUMRIGHT ADMINISTRATIVE STAFF**

City Manager ..... Ed Tinker  
City Clerk ..... Susan White  
Director of Finance ..... Holly Maschino



STATE OF OKLAHOMA  
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan  
State Auditor and Inspector

Mr. Cleo Ramsey, Mayor  
City of Drumright  
122 W. Broadway St.  
Drumright, Oklahoma 74030

Dear Mr. Ramsey:

In accordance with the requirements of **74 O.S. 2001, § 18f** we performed a special audit with respect to the City of Drumright, for the period July 1, 2000 through June 30, 2006.

The objectives of our special audit primarily included, but were not limited to:

- Pension plan;
- Use of bond proceeds;
- Administration compensation;
- Paid leave;
- Employee bonuses;

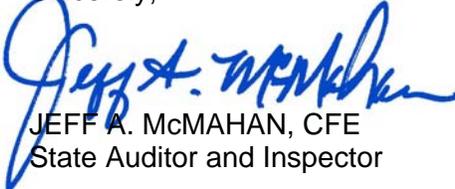
Our findings and concerns related to these procedures are presented in the accompanying report.

Because the above procedures do not constitute an audit in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the City of Drumright for the period July 1, 2000 through June 30, 2006.

Further, due to the test nature and other inherent limitations of a special audit report, together with the inherent limitations of any internal control structure, there is an unavoidable risk that some material misstatements may remain undiscovered. This report relates only to the accounts and items specified above and do not extend to any financial statements of the City of Drumright taken as a whole.

This report is intended to provide information to Attorney General. This restriction is not intended to limit the distribution of the report, which is a matter of public record when released.

Sincerely,



JEFF A. McMAHAN, CFE  
State Auditor and Inspector

November 29, 2006

**INTRODUCTION**

The City of Drumright, Creek County, Oklahoma, is a Charter City operating under a Council-Manager with Charter form of government. Day to day operations of the City are conducted by the City manager in accordance with the guidance from the elected, five member City Commission.

The City is audited annually by private independent auditors, and the audit reports were made available for our review. The City's daily financial records for the period covered by our investigation were also made available for our inspection and use.

The State Auditor and Inspector conducted a special audit of the records of the City of Drumright, primarily those records relating to the concerns of the Attorney General listed in the "index of specific concerns" noted in the table of contents. The results of the special audit are in the following report.

**CONCERN:**

- **Irregularities in adoption of new retirement plan.**
- 

**FINDINGS:**

- **The pension plan documentation is inconsistent.**
  - **Retirement committee's duties, powers and functions are not clearly defined.**
  - **The Trust Agreement appears to assign total control of the plan to GAO.**
  - **The City approved a Plan Document that had not been prepared at the time of approval.**
  - **The city attorney did not review the plan documentation prior to implementation.**
- 

**BACKGROUND:**

On October 5, 2004 the City Commissioners adopted Resolution 04-11 calling for the City to terminate its participation in the Defined Benefit (DB) plan currently held with the Oklahoma Municipal Retirement Fund (OMRF). The meeting minutes reflect the following:

Ed Tinker, City manager, called the Commissioners attention to Resolution No. 04-11, A Resolution terminating the City of Drumright participation of the Defined Benefit Plan in the Oklahoma Municipal Retirement Fund. Mr. Tinker explained that we have designed a new twenty-year retirement that is similar to the Police and Fire Pension plans of Oklahoma. Mr. Tinker explained that we have sought out a new vendor, Government Alliance of Oklahoma, Inc. with Ameritas Retirement Plans to administer the plan. This Resolution will allow the City of Drumright to change vendors.

The Board of Commissioners unanimously adopted Resolution 04-11.

During the same meeting the City Commissioners adopted Ordinance 244. Ordinance 244 adopted the new DB plan through the Government Alliance of Oklahoma, Inc. The motion was approved unanimously.

Ordinance 244 states, in part:

Section 1. The Employee Retirement System of Drumright, Oklahoma, Defined Benefit Plan is hereby adopted as reflected on the attached Adoption Agreement, which is incorporated herein by reference. This adoption shall be effective as of December 1, 2004.

Section 2. The City Clerk and City manager be and they are hereby authorized and directed to execute the Retirement Plan documents and to do all the other acts necessary to put said adoption into effect. The executed Adoption Agreement attached hereto as Exhibit "A" is hereby ratified and confirmed in all respects.

Attached to the meeting minutes was a document entitled "Government Alliance of Oklahoma, Inc. Defined Benefit Pension Plan Adoption Agreement". This document consists of ten (10) sections each addressing various aspects of the plan by means of checkboxes and fill in the blank options.

The Adoption Agreement (Agreement) attached to the meeting minutes was not signed. We asked for and were provided a copy of the agreement signed by the city manager.

Section 10 of the Agreement reflects the following:

The undersigned Adopting Employer hereby adopts and applies to participate in the GAO Defined Benefit Pension Plan for the benefit of its Eligible Employees, Dependents and their Beneficiaries. The Adopting Employer hereby agrees to be bound by the Plan Document and the Trust Agreement.

**Trust Agreement Documentation Is Inconsistent.**

We were provided with the Trust Agreement (Trust) entitled "Government Alliance of Oklahoma, LTD, Defined Benefit Pension Plan Trust Agreement". The Trust begins with the following statement:

The undersigned Governmental Employee Benefit Alliance, Ltd. (the "Sponsor") [...]

The signature page for this document reflects the sponsor as Governmental Alliance of Oklahoma, Inc. The signature page reflects that this document was executed on 12/1/2004. The title page for the Trust Agreement reflects "Effective as of December 1, 2004".

In addition to the Trust Agreement we were provided with a forty-four (44) page document entitled "Governmental Alliance of Oklahoma, Ltd. Defined Benefit Pension Plan Document" (Plan).

The Plan begins with the following statement:

This Plan Document is for a governmental defined benefit pension plan. The Sponsor of the Plan is the Governmental Alliance of Oklahoma, Ltd., or its successor (hereinafter sometimes referred to as the "Sponsor").

The signature page for the Plan reflects the sponsor as Governmental Alliance of Oklahoma, Inc. The signature page reflects the execution date as 12/1/2004. The title page of the Plan reflects "Effective as of December 1, 2004".

We asked the city clerk about the apparent interchangeable use of Governmental Alliance of Oklahoma, Inc. and Governmental Alliance of Oklahoma, Ltd.

The city clerk advised us that after discussion with the Executive Director of Governmental Alliance of Oklahoma, Ltd. she learned that Governmental Alliance of Oklahoma Inc. and Governmental Alliance of Oklahoma, Ltd. is effectively the same

entity. Apparently, after legal review, it was determined that a limited partnership was the more appropriate construction for Governmental Alliance of Oklahoma.

We were advised, the Trust Sponsor, Governmental Employee Benefit Alliance, Ltd, should have read Governmental Alliance of Oklahoma, Ltd. although the document signature page reflects Governmental Alliance of Oklahoma, Inc. while the document itself is entitled "Government Alliance of Oklahoma, Ltd. Defined Benefit Pension Plan Trust Agreement".

Records from the Oklahoma Secretary of State reflect the registration of Governmental Employee Benefit Alliance, Ltd. on 2/25/2003. On 6/30/2005 an Amended Certificate of Incorporation was filed renaming Governmental Employee Benefit Alliance, Ltd. to Governmental Alliance of Oklahoma, Ltd. The Secretary of State's record reflects that there is not and was not a Governmental Alliance of Oklahoma, Inc. registered with the Secretary of State.

Based on the records provided it appears that the Trust Agreement Sponsor, Governmental Employee Benefit Alliance, Ltd. did exist and was registered with the Secretary of State, however the sponsor listed on the signature page, Governmental Alliance of Oklahoma, Inc. does not exist.

The Plan sponsor, Governmental Alliance of Oklahoma, Ltd. also did not exist at the time of the Plan's purported execution date of 12/1/2004. Additionally, the original Plan signature page reflected the sponsor as Governmental Alliance of Oklahoma, Inc., which also did not exist. While the amended signature page reflects Governmental Alliance of Oklahoma, Ltd., we noted that the amended signature page also bears the date 12/1/2004 although at that time the entity name was Governmental Employee Benefit Alliance, Ltd.

The 10/5/2004 City Commission minutes ("minutes") reflect the City Commission voted and approved the adoption of the new retirement plan by approving Ordinance 244. Ordinance 244 states, in part:

Section 1. The Employee Retirement System of Drumright, Oklahoma, Defined Benefit Plan is hereby adopted as reflected on the attached Adoption Agreement, which is herein by reference. This adoption shall be effective as of December 1, 2004.

The attached Adoption Agreement reflects the agreement is being executed with Governmental Alliance of Oklahoma, Inc. As previously noted, records provided by the Oklahoma Secretary of State, Government Alliance of Oklahoma, Inc was not a registered entity.

**Retirement Committee duties and responsibilities are not clearly defined.**

Ordinance 244 states, in relevant part:

AN ORDINANCE ADOPTING THE EMPLOYEE RETIREMENT SYSTEM OF DRUMRIGHT [...] CREATING A RETIREMENT COMMITTEE AND PROVIDING FOR POWERS, DUTIES, AND RIGHTS OF RETIREMENT COMMITTEE; [...]

While Ordinance 244 provides for the creation of a retirement committee and provides for “powers, duties and rights” of the committee, the Ordinance is silent on what the powers, duties and rights of the committee shall be.

During the same meeting the City Commission adopted an “Acceptance of Trust document”. It appears the City adopted the previously noted Trust Agreement (“Agreement”).

The Agreement states, in part:

The undersigned Governmental Employee Benefit Alliance, Ltd (the “Sponsor”), Administrator and Trustee hereby adopt and establish this Trust for a defined benefit pension plan. The Sponsor desires the Trustee to hold and administer such funds and the Trustee is willing to hold and administer such funds pursuant to the terms of this Agreement.

The Agreement is signed by the Executive Director of Governmental Alliance of Oklahoma, Inc. as both the sponsor and administrator. We previously noted that Governmental Alliance of Oklahoma, Inc. is not registered with the Oklahoma Secretary of State. Moreover the Agreement lists the Sponsor as Governmental Employee Benefit Alliance, Ltd., not Governmental Alliance of Oklahoma, Inc.

The Agreement signature page also bears the signatures of the city clerk and city manager under the heading “TRUSTEE: GAO RETIREMENT COMMITTEE”.

Based on interviews with the city manager and city clerk, the City has an informal retirement committee consisting of five (5) city employees. The committee members consist of the following:

- City manager.
- City clerk.
- Finance director.
- Utilities clerk.
- Water plant operator.

This committee is referred to as the City of Drumright Retirement Committee (DRC) and functions as a recommending committee with no decision-making authority. According to the city clerk and city manager, DRC has no powers and serves as a recommending body for the City Commission.

We obtained a copy of the previous defined benefit plan (OMRF). The OMRF plan provides the following under Article IX Section 9.1:

The System shall be administered by a Board of Trustees (herein called the Retirement Committee which is hereby created and established and which shall be composed of the members of the City Council of the Employer.

We did not find language in the GAO Plan Document clearly defining the Retirement Committee nor the powers and duties of such committee.

**The Trust Agreement appears to assign total control of the plan to GAO.**

The Agreement provides, under Article III, the “RIGHTS AND DUTIES OF THE TRUSTEE”. The Agreement signature page is signed by the city manager and city clerk as “TRUSTEE: GAO RETIREMENT COMMITTEE”.

Some of the powers and duties assigned to the Trustees, as per Article III Section 3.2 of the Agreement include:

To sell, exchange, lease, mortgage or pledge any property of the Trust, real or personal, to determine the terms and manner of doing so, and to execute, seal and deliver all appropriate instruments connected therewith.

To borrow money for any purpose, to execute promissory notes or other evidences of indebtedness therefore, and to secure such obligation by mortgage or pledge of any of the assets of the Trust.

To determine conclusively and regardless of prevailing accounting practice what constitutes principal and income and the charges to be made against each.

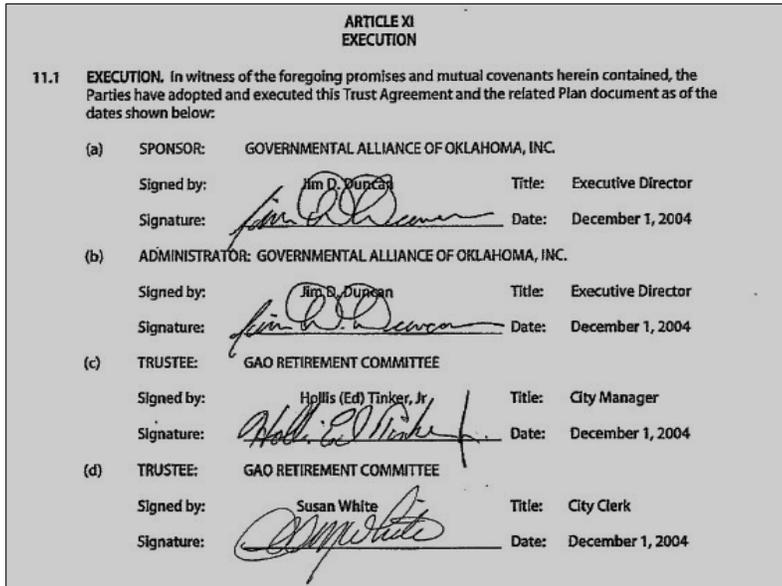
Article III Section 3.4 of the Agreement states:

NO LIMITATION. The foregoing powers and authority are by way of illustration and not by way of limitation, it being the intent of this agreement to give the Trustees all powers necessary to carry out the objectives of the Plan.

Article I Section 1.3 of the Agreement states:

TRUSTEE: “Trustee” means the individual or entity named as Trustee in Article XI hereof, and any successor thereto.

Article XI of the Agreement appears as follows:



Article VII Section 7.2 of the Agreement states:

MORE THAN ONE TRUSTEE. If there are more Trustees than one, all references to the Trustee are references to the Trustees.

Article VI Section 6.1 of the Agreement states:

Resignation of Trustee. The Trustee may resign at any time by giving written notice to the Sponsor at least 30 days before the effective date of such resignation. The Sponsor may remove the Trustee at any time by giving written notice to it at least 30 days before the effective date of such removal.

Article VI Section 6.2 of the Agreement states:

Appointment of Successor Trustee. In the event of the resignation or removal of the Trustee, the Sponsor appoints a new Trustee. Any successor Trustee has the same powers and duties as its predecessor in office.

Article VII Section 7.7 of the Agreement states, in part:

APPOINTMENT OF ADDITIONAL TRUSTEES. As long as the Trustee is not a corporation, the Sponsor may appoint additional Trustees.

On 10/18/2004 the City Commission voted on and approved Resolution 04-13. Resolution 04-13 provided for the termination of the previous defined benefit pension plan and directed the funds to be transferred to the new pension plan. Resolution 04-13 also reflected the following:

That the City manager and City Clerk of the City of Drumright, by [sic] appointed to serve as Trustees for the Employee Retirement System Defined Benefit Plan of the City of Drumright as of the 1<sup>st</sup> day of December 2004.

While the City Commission has appointed the city manager and city clerk (by positions) as Trustees of the pension plan, the language contained in the Agreement appears to bestow upon the sponsor, Governmental Employee Benefit Alliance Ltd. or Governmental Alliance of Oklahoma, Inc., the power to remove and appoint the Trustees.

**The Plan Document Is Inconsistent.**

The Adoption Agreement ratified by the City Commissioners included, in Section 10 EXECUTION BY ADOPTING EMPLOYER, the following language:

The undersigned Adopting Employer hereby adopts and applies to participate in the GAO Defined Benefit Pension Plan for the benefit of its Eligible Employees, Dependents and their Beneficiaries. The Adopting Employer hereby agrees to be bound by the Plan Document and the Trust Agreement.

Section 2, GENERAL PLAN PROVISIONS AND DEFINITIONS, of the Adoption Agreement appears as follows:

<b>2</b>	<b>GENERAL PLAN PROVISIONS AND DEFINITIONS</b>
This is: <input checked="" type="checkbox"/> the Initial Plan Adoption. The Effective Date is: <u>12 / 1 / 2004</u> .	
<input type="checkbox"/> an Amendment effective as of: <u>    /    /    </u> .	
3-Digit Plan Serial No.: <u>004</u>	

It appears that the Adoption Agreement is incorporating the Plan Document serial number 004. The City was unable to provide a Plan Document reflecting serial number 004.

We were provided a forty-one (41) page document entitled “Government Alliance of Oklahoma, Ltd. Defined Benefit Pension Plan – Plan Document”. This document was represented as being “the Plan” referred to in the Adoption Agreement and as being reflective of the terms and conditions of the Adoption Agreement.

We noted the Plan Document reflecting the sponsor as “Governmental Alliance of Oklahoma, Ltd.”; however the signature page reflects the sponsor as “Government Alliance of Oklahoma, Inc.”. We were provided an amended signature page for The Plan reflecting the signatures of Government Alliance of Oklahoma, Ltd.

According to records maintained by the Oklahoma Secretary of State, Governmental Employee Benefit Alliance, Ltd. was renamed Governmental Alliance of Oklahoma, Ltd. on 6/30/2005, approximately six months after the “approval” and effective date of the Plan Document.

The city manager and city clerk both stated that this document had not been prepared at the time the Adoption Agreement was approved. We noted the Plan Document reflected the sponsor as “Governmental Alliance of Oklahoma, Ltd”.

**The City approved a Plan Document that had not been prepared at the time of approval.**

Although the Adoption Agreement states, in part, "The Adopting Employer hereby agrees to be bound by the Plan Document and Trust Agreement" it appears the Plan Document did not exist at the time of adoption.

**The city attorney did not review the plan documentation prior to implementation.**

We interviewed the city attorney who stated that he was not asked and did not review the Plan Document or the Trust Agreement prior to approval by the City Commission.

**RECOMMENDATIONS:**

We recommend the City obtain pension plan documents that properly reflect the parties involved in the agreements. Furthermore, we recommend the City consult with their legal counsel prior to implementing contracts and agreements.

We recommend the appropriate authority review these findings to determine what action is considered necessary.

**CONCERNS:**

- **The GAO Retirement Plan was structured to benefit the city manager.**
  - **The city manager became instantly vested under the new plan.**
  - **The city manager received over ten (10) years service credit without having paid into the OMRF plan.**
  - **City Commission was not fully informed of the benefits granted to the city manager under the new retirement plan.**
- 

**FINDINGS:**

- **The city manager did become vested at the time the plan was adopted.**
  - **We question the basis for excluding the city manager from the OMRF plan.**
  - **The city manager received credit for years of service for which he had been previously compensated.**
  - **There is no clear definition of "elected official service".**
  - **The City Commission was not aware of all of the benefits received by the city manager.**
- 

The Adoption Agreement for the GAO Retirement Plan provided for the following service credits:

- Up to five (5) years credit for prior military service.
- Up to five (5) years credit for elected official service.
- A grandfathered ten (10) year vest "if employed prior to December 1, 2004".

**The city manager did become vested at the time the plan was adopted.**

Section 1 of the Adoption Agreement appears as follows:

Prior Service credit: Up to 5  Years  Months each of  Military Service  Elected Official Service

Section 8 of the Adoption Agreement appears as follows:

Grandfathered Vesting:  100% immediate  3-20  10-year cliff  5-15 year  
 \_\_\_\_\_% per year  Other- \_\_\_\_\_ if employed prior to December 1, 2004.

The city manager received credit for five (5) years military service. As a former City Council member for the City of McAlester (4/94 through 3/00) he also received five (5) years credit for "Elected Official Service".

The language found in Section 8 of the Adoption Agreement provides for a grandfathered 10 (ten) year vesting "if employed prior to December 1, 2004". The city manager was hired in February 2001.

Based on the options selected in the Adoption Agreement the city manager did become vested at the time the GAO Retirement Plan was adopted.

**We question the basis for excluding the city manager from the OMRF plan.**

The city manager was hired in February 2001. During the period from 2001 through 2004, when the GAO Retirement Plan was adopted, the city manager was not a participant in the City's defined benefit retirement plan with OMRF.

Section 1.1 of the OMRF plan documents reflects the following:

**1.1 ELIGIBILITY & PARTICIPATION**

All regular, full-time municipal employees of any department, including employees who are elected officials or in appointed offices, are eligible to participate *except firemen and policemen contributing into any other State retirement system*. Part-time employees are eligible only if stipulated in the plan document's Joinder Agreement. Any new employee who is over the age of 60 when hired shall not participate in the plan (unless otherwise stipulated the plan's Joinder Agreement).

**→ All employees (as defined above) will be required to participate as a condition of employment.**

We asked how the city manager was excluded from the OMRF plan and were directed to a provision in the OMRF Joinder Agreement reflecting the following:

The word "Employee" shall not include:

- Any person who is currently accruing benefits under any other state or local retirement system.
- Any person who is in the position of City Manager and covered under another retirement system which has been approved by the City Council.

We asked the city manager if, at the time of exclusion from the OMRF plan, he was drawing benefits from any other state or local plan and if he was drawing benefits from any other plan approved by the City Commission. He stated that he was not.

**The city manager received credit for years of service for which he had been previously compensated.**

As a result of being excluded from the OMRF defined benefit plan during the 2001 through 2004 period the city manager was paid \$29,359.88 in additional taxed compensation in lieu of the City paying contributions into the OMRF plan on behalf of the city manager.

The additional compensation was reported as taxable income and separate W-2 forms were issued.

Once the City transitioned from the OMRF defined benefit plan to the GAO defined benefit plan, the city manager was provided years of service credit for the time period that he previously received compensation in lieu of participating in the OMRF plan.

**Article X Section 15A** of the **Constitution of Oklahoma** states:

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

**There is no clear definition of “elected official service”.**

Although the Adoption Agreement appears to provide up to five (5) years service credit for Elected Official Service we were unable to find, in the Plan Document, a definition for what would be considered as qualifying Elected Official Service.

**The City Commission was not aware of all of the benefits received by the city manager.**

As previously noted in this report it appears that at the time the City Commission approved the Adoption Agreement the Plan Document had not been created and therefore, not presented to the City Commission for review. As previously noted in this report, the city attorney did not review the Plan Document.

At the time of our fieldwork three current members of the City Commission were members at the time of the transition from the OMRF to the GAO plan. The following is a summary of those interviews:

Commissioner #1 was aware that the city manager received five (5) years elected service credit. He was also aware that the city manager was receiving compensation in lieu of payments into the OMRF retirement plan. He could not recall if he was aware that the city manager received service credit for this time period although it would not have changed his position on adopting the new plan.

Commissioner #2 was not aware of the elected service credit given to the city manager. He was aware that the city manager was not paying into the OMRF retirement plan and

was being paid extra compensation. He was not aware that the city manager also received service credit for the years in which he had already been compensated. He did not believe the city manager should have been given service credit for the time he had already been compensated for and did not believe that the city manager should have been given credit for having previously served on a city council.

Commissioner #3 could not recall if he was aware that the city manager received credit for prior elected service. He was aware that the city manager was being compensated in lieu of participation in the OMRF retirement plan; however he was not aware that the city manager was also given service credit for the time in which he had already been compensated.

All three Commissioners were working under the belief that the city attorney had reviewed the retirement plan documents. As noted previously in this report, the city attorney had not reviewed any of the retirement plan documents.

**RECOMMENDATIONS:**

We recommend the City Commission consult with the city attorney to determine the benefits granted by adoption of the GAO retirement plan.

We recommend the appropriate authority review these findings to determine what action is considered necessary.

**CONCERN:**

- **Employees were limited to five (5) years service credit.**

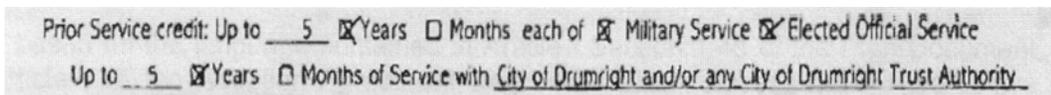
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**FINDINGS:**

- **Employees were not limited to five (5) years service credit for benefit calculations and retirement dates.**
- **Employees may have been limited to five (5) years credit for purposes of vesting.**

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The concern appears to stem from the language contained in the Adoption Agreement approved by the City Commissioners. Section 1 of the Adoption Agreement, with regards to service credit, appears as follows:



The city manager stated this section of the Adoption Agreement was not intended to limit the amount of service credit to those employees that were transferring from the OMRF to the GAO pension plan. According to the city manager the intent of this provision was:

- To limit the number of years of service credit given to employees who retired from one of the other city divisions under a different retirement plan and who then subsequently became employed with a different division.
- To limit the number of years that could be claimed by an employee who may have had years of service credit in the past, but was not an employee at the time of the transition from the OMRF to GAO plan.

Article I Section 1.44 of the Plan Document states, in part:

YEAR OF BENEFIT SERVICE: The term "Year of Benefit Service" shall mean an employee's Years of Service with an Adopting Employer, excluding periods while employed with an Affiliated Employer which is not an Adopting Employer, and shall be based on the Participant's Years of Service with the Adopting Employer, or on the Participant's Years of Service as a Participant in the Plan, elected in the Adoption Agreement.

Section 8 of the Adoption Agreement appears as follows:

7 ACCRUED BENEFIT  
Benefit Service based on:  Service  Participation  
Years:  Year of Benefit Service based on  1,800 Hour(s) of Service  elapsed time.  
Months:  Month of Benefit Service based on  \_\_\_\_\_ Hour(s) of Service  elapsed time.

Article I Section 1.45 of the Plan Document states, in part:

YEAR OF SERVICE: The term "Year of Service" has a different meaning with respect to plan eligibility and vesting, as follows:

Article I Section 1.45 (c) states:

Prior Service Credit: An employee will also receive credit for all Years of Service with the Predecessor Employer named in the Adoption Agreement. However, no Participant shall be granted more than the number of Years of Service or Months of Service elected in the Adoption Agreement.

We were provided a copy of the 6/30/2005 Actuarial Report for the GAO pension plan. Included in the report was a schedule of *years of credited service*. The schedule reflects that employees were granted more than five (5) years of credited service.

We were provided a listing of employees along with employee hire dates. Based on the information provided and the language contained in Section 8 of the Adoption Agreement and Article I Section 1.44 of the Plan Document, it appears that employees were granted more than the five (5) years benefit service credit.

Based on the language contained in Article I Section 1.45 of the Plan Document, as well as Section 1 of the Adoption Agreement, we question if employees are limited to five (5) years credit for purposes of calculating vesting dates.

**RECOMMENDATION:**

We recommend the City Commission consult with their legal counsel to determine if, in fact, years of service credit for purposes of vesting has been limited and take what action is necessary to clarify the purpose and intent of the City Commission.

**CONCERN:**

- **Discrepancy in funds provided by OMRF and received by Ameritas.**
- 

**FINDINGS:**

- **The funds were wired directly from OMRF to Ameritas.**
  - **We confirmed Ameritas received the amount wired.**
- 

This concern, as related to us, was that not all of the funds that were transferred from the OMRF Defined Benefit Plan were deposited in the Ameritas account.

City officials provided us with a copy of an email dated 12/20/2004 between an OMRF employee and an Ameritas employee, with a carbon copy sent to the city clerk. The email reflects that OMRF was prepared to wire \$1,029,874.77 to Ameritas.

We obtained documentation from OMRF reflecting that \$1,029,874.77 had been electronically transferred from OMRF to Ameritas with the notation "City of Drumright DB plan termination".

We obtained a letter dated 12/23/2004 from an Ameritas official reflecting the amount of \$1,029,874.77 had been deposited with Ameritas.

Based on the documentation obtained it appears the funds were electronically transferred directly from OMRF to Ameritas.

**RECOMMENDATION:**

No recommendation necessary.

**CONCERN:**

- **The City caused an unfunded liability to increase as a result of changing pension plans.**
- 

**FINDINGS:**

- **There are no statutory requirements for funding levels of a public pension.**
  - **The City appears to be following the advice of the Actuary.**
-

This concern appears to be based on two actuarial reports issued for the OMRF and GAO retirement plans in March 2004 and June 2005, respectively. The March 2004 actuarial report, for the OMRF plan, reflects an unfunded actuarial liability of \$300,182.00. The June 2005 actuarial report, for the GAO plan, reflects an initial unfunded liability of \$896,791.45, a difference of \$596,609.45.

We noted that unfunded liability amounts are listed for the period from 1996 through 2003. During this period the unfunded liability amount ranges from a low of \$116,588 (1997) to a high of \$458,842 (1999).

In addition to the actuarial reports this concern appears to also be based, at least in part, on a portion of a letter from the GAO plan actuary, dated 11/15/2003, stating, in part:

Although we believe that the plan's performance is over the next several years is likely to be satisfactory [sic], you should note that as a result of the experience of the past 4 years in the OMRF, your plan is currently underfunded by several hundred thousand dollars. In fact, the assets allocated to the City of Drumright are barely sufficient to provide retirement benefits to current retirees.

The Encyclopedia Britannica describes the functions of an actuary as follows:

Actuaries compute the probability of the occurrence of such events as birth, marriage, illness, accidents, and death. They also evaluate the hazards of property damage or loss and the legal liability for the safety and well-being of others. Usually employed by insurance companies, actuaries set premium rates based on statistical studies, establish underwriting procedures, and determine the amounts of money required to assure the payment of benefits. [ea].

We obtained a letter from the Actuary for the GAO plan dated 5/13/2004 stating, in part:

In addition to the benefits available under your current plan, we also projected costs relating to the "20 & out" or "70 point" features. The contribution for the "20 & out" plan ranges from 18.85% to 23.32% of payroll.

We contacted the Actuary for the GAO plan who stated that typically under funding is calculated based on future projections of retirement obligations versus what is presently being contributed to the system. The funds are reviewed annually and the actuary makes recommendations to the plan administrators who may elect to follow all, part, or none of the recommendations.

We inquired of the Actuary whether the City was following the recommendations that were being made as a result of the actuarial studies. The Actuary stated that the City has followed the recommendations that have been made and stated, "I believe they have acted very responsibly". The City is contributing a payroll percentage within the range of the recommendations made by the GAO plan Actuary.

We find no statutory requirements for funding levels for public pension plans.

While a fully funded pension plan is better than one that is underfunded, simply being underfunded does not mean that a particular plan cannot or will not meet future obligations. Pre-funded public pension plans, such as the GAO plan, continue to require contributions and investment earnings.

Furthermore, public pension plans that are underfunded continue to meet retirement benefit obligations. Underfunding is, essentially, a snapshot of funding conditions, at a given point in time.

**RECOMMENDATION:**

No recommendation necessary.

**CONCERNS:**

- The city manager's salary increased from \$85,341 in 2004 to \$116,150 in 2005. The city clerk's salary increased from \$59,213 in 2004 to \$134,998 in 2005.
  - Drumright is number one in their class in compensation for the city manager and city clerk.
- 

**FINDINGS:**

- Amounts reported in the annual audits include other expenses in addition to salaries.
  - It is within the Board's discretion to establish the compensation of City employees.
  - The Commission approves payroll in a lump-sum manner.
- 

The first concern stems from the following expense amounts reported in the annual independent audits:

Fiscal year 2004:

Functions/Programs	Expenses
<b>Governmental activities:</b>	
General government:	
City clerk	\$ 59,213
City manager	85,341
General government	211,821
Total general government	356,375

Fiscal year 2005:

Functions/Programs	Expenses
<b>Governmental activities:</b>	
General government:	
City clerk	\$ 134,998
City manager	116,150
General government	145,387
Total general government	396,535

Based on documentation obtained, the reported expense amounts for the city manager and city clerk reflect expenses in addition to the actual salaries. Included in the amounts are expenses for social security, retirement and hospitalization. The expense amounts also consist of maintenance and operations expenses such as travel and training. In 2005, capital outlay expenditures were classified as city clerk expenses resulting in the substantial increase in city clerk expenses from 2004 to 2005.

As reflected on the Budget Report, the city manager and city clerk's actual salaries are as follows:

	2004	2005
<b>City manager:</b>		
Base Salary	\$59,360.35	\$77,304.50
Salary Plus Benefits	\$76,100.50	\$102,272.33
<b>City Clerk:</b>		
Base Salary	\$44,189.72	\$56,014.60
Salary Plus Benefits	\$58,378.50	\$75,178.97

In addressing whether the City of Drumright is number one in their class in compensation for city officials, it was necessary to consider the following:

- Whether the Commission has the sole authority to establish the compensation of their employees.
- If so, whether or not the Commission approved the compensation.
- Whether state statutes or the city charter establish maximum compensation limitations for city officials.

According to Article II Section 9 and 10 of the City Charter:

Except as otherwise provided in this Charter, all powers of the City, including the determination of all matters of policy, shall be vested in the Commission. Without limitation of the foregoing, the Commission may:

...fix salary and compensation of officers and employees of the City, including the salary of the City manager.

It appears the City Charter authorizes the Commission to fix the compensation of employees and we found no state statute establishing salary limitations.

If the Commission has the authority to establish the compensation of employees and statutes do not limit the amount of compensation, then whether Drumright was number one or not would be irrelevant.

Based on the foregoing, it appears that it is within the Commissioner's discretion to establish salary amounts for City employees.

In determining whether the Commission approved the salaries of the city manager and clerk, it was noted that the Board approves salaries in a lump-sum manner when approving the budget. We were provided a document indicating city employees received salary increases for fiscal year 2004-05. Documentation indicates both the city manager and city clerk received 17 % salary increases. An interview with the finance director indicated that salary increases are reviewed by the budget committee and are not specifically approved by the Commission.

**RECOMMENDATION:**

We recommend that separate Commission approval be obtained for any issues in employee compensation other than normal payroll, such as employee raises and bonuses.

**CONCERN:**

- **Are employees paid for PTO (paid time off)? Can employees accumulate PTO until retirement and boost their retirement benefit?**
- 

**FINDING:**

- **A policy provision authorizes compensation for paid time off in excess of the accrual limit for non-exempt employees.**
  - **Compensation for paid time off appears to be nominal.**
- 

The policy provision authorizing the payment for paid time off provides in relevant part:

In the event that available PTO is not used by the end of the benefit year, employees may carry unused time forward to the next benefit year. When the total amount of unused PTO reaches a "cap" equal to 160 hours the bi-weekly accrual will be placed into the **Extended Illness Accrual Bank (EIAB)**. The **EIAB** accrual will be capped at 640 hours. The City places 2 hours each pay period into the **EIAB** account for each employee. When the **PTO** and the **EIAB** accruals have reached the cap limits the bi-weekly accruals, for **PTO** only, will be paid to the employee in the last payroll of the month following the month in which it was earned.

Based on the policy provision it appears that non-exempt employees may receive compensation for paid time off for those hours accrued over the 640 hour limit. Based on the policy, employees would receive compensation for only paid time off over and above the maximum accruals. According to the finance director, very few employees that have been compensated for paid time off. The finance director verified that in the last 6 months one employee has been compensated for a total of \$667.49.

Compensation for paid time off would increase an employee's income, which would effectively boost the retirement benefit. However, based on an interview with the finance director the benefit increase would be nominal. Further, whether the increase is nominal or not has no bearing since compensation for paid time off does not appear to be precluded by statute.

**RECOMMENDATION:**

No recommendation necessary.

**CONCERN:**

- **Commissioners are not aware of the Christmas bonus received by employees.**
- 

**FINDING:**

- **Employees do not receive a Christmas Bonus.**
- 

Based on a review of payroll check registers for November and December 2005 and an interview with the finance director, employees do not receive a Christmas bonus.

**RECOMMENDATION:**

No recommendation necessary.

**CONCERN:**

- **Personal use of city manager's vehicle is reported as a fringe benefit on his W-2, which increases his retirement benefit.**
- 

**FINDING:**

- **Reporting the \$20.00 fringe benefit for the employer provided vehicle appears to be an IRS requirement.**
- 

The value of the fringe benefit for the city manager's vehicle totals approximately \$20.00 a year. This amount is calculated based on the estimated distance of 1/10<sup>th</sup> of a mile between his home and city hall and includes fuel use.

Since the value of the vehicle benefit is reported on the city manager's W-2 this would effectively boost the retirement benefit. Given the minuscule amount of this fringe benefit it appears any affect on the city manager's retirement benefit would be negligible. Based on conversations and documentation, the practice of including this amount on the city manager's W-2 appears to be an IRS requirement rather than a scheme to increase the retirement benefit.

**RECOMMENDATION:**

No recommendation necessary.

**CONCERN:**

- **Bond issues that were promoted to benefit the hospital were used for other purposes.**
- 
- **Bond proceeds appeared to be used consistently with guidelines set forth in Board Resolutions and the use of sales tax proceeds appeared to be used in accordance with the Propositions approved by Drumright voters.**
- 

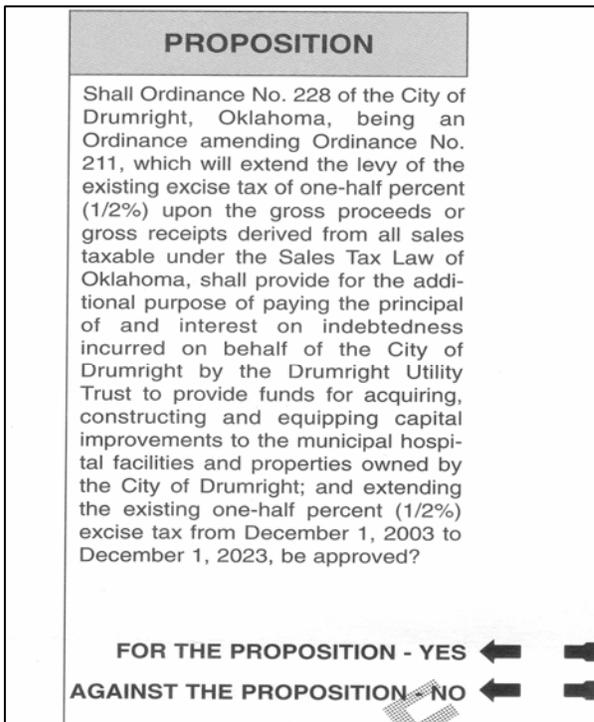
**2001 Bond Issue**

On July 10, 2001 the Drumright Utility Trust passed Resolution 01-15 authorizing the issuance of Utility System Refunding Revenue Bonds Series 2001 not to exceed \$1,900,000.00. The language in Resolution 01-15 indicates bond proceeds are not limited to hospital improvements. This is evidenced by the first paragraph of the Resolution, which reads as follows:

WHEREAS, the Trustees of the Drumright Utility Trust have determined to issue an aggregate principal amount of not to exceed \$1,900,000.00 Utility System Revenue Bonds Series 2001 of the Authority to retire existing indebtedness of the Authority and to provide funds for improvements to the library, parks, sidewalks and hospital facilities and properties of the City of Drumright, Oklahoma, the beneficiary of the Authority and to retire certain outstanding indebtedness of the Authority; and

Based on the wording in Resolution 01-15, it appears the bond proceeds can be used for improvements to any City owned facility or property.

In addition to issuing bonds, the City passed Ordinance No. 228, which was contingent on the citizens voting in favor of the Proposition in the June 12, 2001 sales tax election.



Based on the sample ballot of the June 12, 2001 election, the purpose of the election was to extend the ½% sales tax levy established by Ordinance No. 211. In addition to providing funds for paying the principal and interest on indebtedness, language contained in the ballot indicates proceeds from the sales tax can be used for purposes other than improvements to the municipal hospital. The wording in the ballot "to provide funds for acquiring, constructing and equipping capital improvements to the municipal hospital and **properties owned by the City of Drumright**" [emphasis added] indicates proceeds are not limited to only municipal hospital improvements.

By voting in favor of the Proposition, it appears the City was authorized to use the sales tax proceeds for any facility or property owned by the City.

**Disposition of 2001 Bond Proceeds**

The net proceeds of the \$1,835,000 Bond issue, after paying the associated issue costs, were approximately \$1,182,374. Based on the documentation provided, the following table summarizes the disposition of the 2001 bond proceeds:

Purpose	Amount
Hospital Improvements	\$1,000,001.00
Broadway Sidewalk Project	\$53,123.78
Park Improvements	\$65,887.24
Library Improvements	\$15,005.62
Economic Development	\$25,526.93
Purchase CD	\$20,000.00
General Fund	\$2,829.82
<b>Total</b>	<b>\$1,182,374.40</b>

The language of Resolution 01-15 provides for broad terms governing the use of bond proceeds that appeared to allow capital expenditures for any City owned property. Therefore, the use of bond proceeds appears to be consistent with guidelines set forth in Resolution 01-15.

**2006 Bond Issue**

On April 10, 2006 the Utility Trust passed Resolution 06-03 authorizing the issuance of Utility System Refunding Revenue Bonds Series 2006 not to exceed \$3,750,000.00. As with the 2001 issue, the language in Resolution 06-03 indicates bond proceeds are not limited to hospital improvements. This is evidenced by the first paragraph of the Resolution, which reads as follows:

A RESOLUTION RELATING TO THE INCURRING OF INDEBTEDNESS BY THE TRUSTEES OF DRUMRIGHT UTILITY TRUST TO BE ACCOMPLISHED BY THE ISSUANCE OF UTILITY SYSTEM REFUNDING REVENUE BONDS SERIES 2006 IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$3,750,000.00 TO PROVIDE A PORTION OF THE FUNDS REQUIRED TO RETIRE CERTAIN OUTSTANDING INDEBTEDNESS OF THE AUTHORITY, TO PROVIDE FUNDS TO EQUIP, OPERATE AND MAINTAIN HOSPITAL FACILITIES AND PROPERTIES OF THE CITY AND TO PROVIDE FUNDS FOR CAPITAL IMPROVEMENTS OF THE CITY; AND DECLARING AN EMERGENCY

Based on the wording in Resolution 01-15, it appears the bond proceeds can be used for improvements to any City owned facility or property.

Also, on February 14, 2006 the citizens voted in favor of another sales tax amendment, which extended the sales tax from December 1, 2023 to April 1, 2036. The sample ballot for this election contained similar language to the 2001 election ballot. As with the first Proposition, the 2006 ballot also contained language authorizing proceeds from the ½% sales tax to be used to pay principal and interest on indebtedness and capital improvements of the City. The minor exception to the wording is reflected as follows:

...to provide funds for capital improvements of the City of Drumright and for paying the expenses of equipping, operating and maintaining the municipal hospital facilities and properties owned by the City of Drumright...

This modification allowed the City to use the proceeds for general operating expenses for the hospital and other properties owned by the City, whereas the previous wording was more restrictive by limiting the expenditures for capital improvements. Again, the Proposition, voted on by the citizens, did not limit the City to hospital related expenditures.

**Disposition of 2006 Bond Proceeds**

The following table describes the disposition of the \$3,498,600.00 proceeds for the 2006 bond issue:

<b>Purpose</b>	<b>Amount</b>
Pay Off 2001 Bonds	\$1,621,452.68
Deposit to Sinking Fund	\$233,212.50
Bond Fees	\$229,961.20
Loan for Hospital	\$511,250.00
Deposited to Utility Fund	\$902,723.62
<b>Total</b>	<b>\$3,498,600.00</b>

Of the 902,723.62 deposited to the Utility Fund, \$490,097.95 was used for hospital related debt, \$98,652.05 was provided to the hospital; a fire truck was purchased for \$240,429.00 and the purchase of a backhoe for \$54,353.07. As of the end of our audit period there is \$19,191.55 remaining in the Utility Fund.

The broad terms of Resolution 06-03 appears to allow for virtually any valid expenditure related to any City property. Therefore, expenditures related to the 2006 bond issue appear to be consistent with the conditions set forth in Resolution 06-03.

**Sales Tax**

According to the finance director, all the 2001 bond issue sales tax proceeds have been used towards the principle and interest payments on the bonds. Only after the 2006 bond issue became effective has there been a sufficient amount of sales tax collections to make the principle and interest payments. Prior to the 2006 bond issue the additional amount needed was paid from the Utility Trust account.

**RECOMMENDATION:**

No recommendation necessary.

**CITY OF DRUMRIGHT**  
**CREEK COUNTY**  
**SPECIAL AUDIT REPORT**  
**JULY 1, 2000 THROUGH JUNE 30, 2006**

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This publication is printed and issued by the State Auditor and Inspector as authorized by 74 O.S. 2001, § 18f and 74 O.S. 2001, § 3105. Thirty-five copies have been prepared and distributed at a cost of \$93.00. Copies have been deposited with the Publications Clearinghouse of the Oklahoma Department of Libraries.



STATE OF OKLAHOMA  
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan  
State Auditor and Inspector

December 18, 2006

Honorable Drew Edmondson  
Attorney General  
313 NE 23<sup>rd</sup> Street  
Oklahoma City, Oklahoma 73105

Transmitted herewith is the Special Audit Report of the City of Drumright, Oklahoma. We performed our special investigative audit in accordance with the requirements of **74 O.S. 2001, § 18f**.

A report of this type is critical in nature; however we do not intend to imply that our report failed to disclose commendable features in the present accounting and operating procedures of the City of Drumright.

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 ensure a government, which is accountable to the people of the State of Oklahoma.

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

Sincerely,

  
JEFF A. McMAHAN, CFE  
State Auditor and Inspector

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**INDEX OF SPECIFIC CONCERNS**

The following concerns are presented in italics as they were communicated to us:

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**DRUMRIGHT CITY COMMISSION**

Mayor ..... Cleo Ramsey  
Vice Mayor ..... Brad Cook  
Commissioner ..... Clark Shideler  
Commissioner ..... Scott Barnett  
Commissioner ..... Terry Morrow

**DRUMRIGHT ADMINISTRATIVE STAFF**

City Manager..... Ed Tinker  
City Clerk ..... Susan White  
Director of Finance..... Holly Maschino



STATE OF OKLAHOMA  
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan  
State Auditor and Inspector

Mr. Cleo Ramsey, Mayor  
City of Drumright  
122 W. Broadway St.  
Drumright, Oklahoma 74030

Dear Mr. Ramsey:

In accordance with the requirements of **74 O.S. 2001, § 18f** we performed a special audit with respect to the City of Drumright, for the period July 1, 2000 through June 30, 2006.

The objectives of our special audit primarily included, but were not limited to:

- Pension plan;
- Use of bond proceeds;
- Administration compensation;
- Paid leave;
- Employee bonuses;

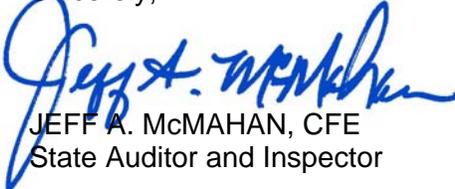
Our findings and concerns related to these procedures are presented in the accompanying report.

Because the above procedures do not constitute an audit in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the City of Drumright for the period July 1, 2000 through June 30, 2006.

Further, due to the test nature and other inherent limitations of a special audit report, together with the inherent limitations of any internal control structure, there is an unavoidable risk that some material misstatements may remain undiscovered. This report relates only to the accounts and items specified above and do not extend to any financial statements of the City of Drumright taken as a whole.

This report is intended to provide information to Attorney General. This restriction is not intended to limit the distribution of the report, which is a matter of public record when released.

Sincerely,



JEFF A. McMAHAN, CFE  
State Auditor and Inspector

November 29, 2006

**INTRODUCTION**

The City of Drumright, Creek County, Oklahoma, is a Charter City operating under a Council-Manager with Charter form of government. Day to day operations of the City are conducted by the City manager in accordance with the guidance from the elected, five member City Commission.

The City is audited annually by private independent auditors, and the audit reports were made available for our review. The City's daily financial records for the period covered by our investigation were also made available for our inspection and use.

The State Auditor and Inspector conducted a special audit of the records of the City of Drumright, primarily those records relating to the concerns of the Attorney General listed in the "index of specific concerns" noted in the table of contents. The results of the special audit are in the following report.

**CONCERN:**

- **Irregularities in adoption of new retirement plan.**
- 

**FINDINGS:**

- **The pension plan documentation is inconsistent.**
  - **Retirement committee's duties, powers and functions are not clearly defined.**
  - **The Trust Agreement appears to assign total control of the plan to GAO.**
  - **The City approved a Plan Document that had not been prepared at the time of approval.**
  - **The city attorney did not review the plan documentation prior to implementation.**
- 

**BACKGROUND:**

On October 5, 2004 the City Commissioners adopted Resolution 04-11 calling for the City to terminate its participation in the Defined Benefit (DB) plan currently held with the Oklahoma Municipal Retirement Fund (OMRF). The meeting minutes reflect the following:

Ed Tinker, City manager, called the Commissioners attention to Resolution No. 04-11, A Resolution terminating the City of Drumright participation of the Defined Benefit Plan in the Oklahoma Municipal Retirement Fund. Mr. Tinker explained that we have designed a new twenty-year retirement that is similar to the Police and Fire Pension plans of Oklahoma. Mr. Tinker explained that we have sought out a new vendor, Government Alliance of Oklahoma, Inc. with Ameritas Retirement Plans to administer the plan. This Resolution will allow the City of Drumright to change vendors.

The Board of Commissioners unanimously adopted Resolution 04-11.

During the same meeting the City Commissioners adopted Ordinance 244. Ordinance 244 adopted the new DB plan through the Government Alliance of Oklahoma, Inc. The motion was approved unanimously.

Ordinance 244 states, in part:

Section 1. The Employee Retirement System of Drumright, Oklahoma, Defined Benefit Plan is hereby adopted as reflected on the attached Adoption Agreement, which is incorporated herein by reference. This adoption shall be effective as of December 1, 2004.

Section 2. The City Clerk and City manager be and they are hereby authorized and directed to execute the Retirement Plan documents and to do all the other acts necessary to put said adoption into effect. The executed Adoption Agreement attached hereto as Exhibit "A" is hereby ratified and confirmed in all respects.

Attached to the meeting minutes was a document entitled "Government Alliance of Oklahoma, Inc. Defined Benefit Pension Plan Adoption Agreement". This document consists of ten (10) sections each addressing various aspects of the plan by means of checkboxes and fill in the blank options.

The Adoption Agreement (Agreement) attached to the meeting minutes was not signed. We asked for and were provided a copy of the agreement signed by the city manager.

Section 10 of the Agreement reflects the following:

The undersigned Adopting Employer hereby adopts and applies to participate in the GAO Defined Benefit Pension Plan for the benefit of its Eligible Employees, Dependents and their Beneficiaries. The Adopting Employer hereby agrees to be bound by the Plan Document and the Trust Agreement.

**Trust Agreement Documentation Is Inconsistent.**

We were provided with the Trust Agreement (Trust) entitled "Government Alliance of Oklahoma, LTD, Defined Benefit Pension Plan Trust Agreement". The Trust begins with the following statement:

The undersigned Governmental Employee Benefit Alliance, Ltd. (the "Sponsor") [...]

The signature page for this document reflects the sponsor as Governmental Alliance of Oklahoma, Inc. The signature page reflects that this document was executed on 12/1/2004. The title page for the Trust Agreement reflects "Effective as of December 1, 2004".

In addition to the Trust Agreement we were provided with a forty-four (44) page document entitled "Governmental Alliance of Oklahoma, Ltd. Defined Benefit Pension Plan Document" (Plan).

The Plan begins with the following statement:

This Plan Document is for a governmental defined benefit pension plan. The Sponsor of the Plan is the Governmental Alliance of Oklahoma, Ltd., or its successor (hereinafter sometimes referred to as the "Sponsor").

The signature page for the Plan reflects the sponsor as Governmental Alliance of Oklahoma, Inc. The signature page reflects the execution date as 12/1/2004. The title page of the Plan reflects "Effective as of December 1, 2004".

We asked the city clerk about the apparent interchangeable use of Governmental Alliance of Oklahoma, Inc. and Governmental Alliance of Oklahoma, Ltd.

The city clerk advised us that after discussion with the Executive Director of Governmental Alliance of Oklahoma, Ltd. she learned that Governmental Alliance of Oklahoma Inc. and Governmental Alliance of Oklahoma, Ltd. is effectively the same

entity. Apparently, after legal review, it was determined that a limited partnership was the more appropriate construction for Governmental Alliance of Oklahoma.

We were advised, the Trust Sponsor, Governmental Employee Benefit Alliance, Ltd, should have read Governmental Alliance of Oklahoma, Ltd. although the document signature page reflects Governmental Alliance of Oklahoma, Inc. while the document itself is entitled "Government Alliance of Oklahoma, Ltd. Defined Benefit Pension Plan Trust Agreement".

Records from the Oklahoma Secretary of State reflect the registration of Governmental Employee Benefit Alliance, Ltd. on 2/25/2003. On 6/30/2005 an Amended Certificate of Incorporation was filed renaming Governmental Employee Benefit Alliance, Ltd. to Governmental Alliance of Oklahoma, Ltd. The Secretary of State's record reflects that there is not and was not a Governmental Alliance of Oklahoma, Inc. registered with the Secretary of State.

Based on the records provided it appears that the Trust Agreement Sponsor, Governmental Employee Benefit Alliance, Ltd. did exist and was registered with the Secretary of State, however the sponsor listed on the signature page, Governmental Alliance of Oklahoma, Inc. does not exist.

The Plan sponsor, Governmental Alliance of Oklahoma, Ltd. also did not exist at the time of the Plan's purported execution date of 12/1/2004. Additionally, the original Plan signature page reflected the sponsor as Governmental Alliance of Oklahoma, Inc., which also did not exist. While the amended signature page reflects Governmental Alliance of Oklahoma, Ltd., we noted that the amended signature page also bears the date 12/1/2004 although at that time the entity name was Governmental Employee Benefit Alliance, Ltd.

The 10/5/2004 City Commission minutes ("minutes") reflect the City Commission voted and approved the adoption of the new retirement plan by approving Ordinance 244. Ordinance 244 states, in part:

Section 1. The Employee Retirement System of Drumright, Oklahoma, Defined Benefit Plan is hereby adopted as reflected on the attached Adoption Agreement, which is herein by reference. This adoption shall be effective as of December 1, 2004.

The attached Adoption Agreement reflects the agreement is being executed with Governmental Alliance of Oklahoma, Inc. As previously noted, records provided by the Oklahoma Secretary of State, Government Alliance of Oklahoma, Inc was not a registered entity.

**Retirement Committee duties and responsibilities are not clearly defined.**

Ordinance 244 states, in relevant part:

AN ORDINANCE ADOPTING THE EMPLOYEE RETIREMENT SYSTEM OF DRUMRIGHT [...] CREATING A RETIREMENT COMMITTEE AND PROVIDING FOR POWERS, DUTIES, AND RIGHTS OF RETIREMENT COMMITTEE; [...]

While Ordinance 244 provides for the creation of a retirement committee and provides for “powers, duties and rights” of the committee, the Ordinance is silent on what the powers, duties and rights of the committee shall be.

During the same meeting the City Commission adopted an “Acceptance of Trust document”. It appears the City adopted the previously noted Trust Agreement (“Agreement”).

The Agreement states, in part:

The undersigned Governmental Employee Benefit Alliance, Ltd (the “Sponsor”), Administrator and Trustee hereby adopt and establish this Trust for a defined benefit pension plan. The Sponsor desires the Trustee to hold and administer such funds and the Trustee is willing to hold and administer such funds pursuant to the terms of this Agreement.

The Agreement is signed by the Executive Director of Governmental Alliance of Oklahoma, Inc. as both the sponsor and administrator. We previously noted that Governmental Alliance of Oklahoma, Inc. is not registered with the Oklahoma Secretary of State. Moreover the Agreement lists the Sponsor as Governmental Employee Benefit Alliance, Ltd., not Governmental Alliance of Oklahoma, Inc.

The Agreement signature page also bears the signatures of the city clerk and city manager under the heading “TRUSTEE: GAO RETIREMENT COMMITTEE”.

Based on interviews with the city manager and city clerk, the City has an informal retirement committee consisting of five (5) city employees. The committee members consist of the following:

- City manager.
- City clerk.
- Finance director.
- Utilities clerk.
- Water plant operator.

This committee is referred to as the City of Drumright Retirement Committee (DRC) and functions as a recommending committee with no decision-making authority. According to the city clerk and city manager, DRC has no powers and serves as a recommending body for the City Commission.

We obtained a copy of the previous defined benefit plan (OMRF). The OMRF plan provides the following under Article IX Section 9.1:

The System shall be administered by a Board of Trustees (herein called the Retirement Committee which is hereby created and established and which shall be composed of the members of the City Council of the Employer.

We did not find language in the GAO Plan Document clearly defining the Retirement Committee nor the powers and duties of such committee.

**The Trust Agreement appears to assign total control of the plan to GAO.**

The Agreement provides, under Article III, the “RIGHTS AND DUTIES OF THE TRUSTEE”. The Agreement signature page is signed by the city manager and city clerk as “TRUSTEE: GAO RETIREMENT COMMITTEE”.

Some of the powers and duties assigned to the Trustees, as per Article III Section 3.2 of the Agreement include:

To sell, exchange, lease, mortgage or pledge any property of the Trust, real or personal, to determine the terms and manner of doing so, and to execute, seal and deliver all appropriate instruments connected therewith.

To borrow money for any purpose, to execute promissory notes or other evidences of indebtedness therefore, and to secure such obligation by mortgage or pledge of any of the assets of the Trust.

To determine conclusively and regardless of prevailing accounting practice what constitutes principal and income and the charges to be made against each.

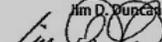
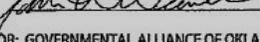
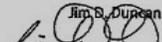
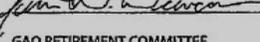
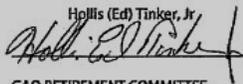
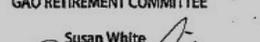
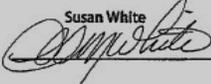
Article III Section 3.4 of the Agreement states:

NO LIMITATION. The foregoing powers and authority are by way of illustration and not by way of limitation, it being the intent of this agreement to give the Trustees all powers necessary to carry out the objectives of the Plan.

Article I Section 1.3 of the Agreement states:

TRUSTEE: “Trustee” means the individual or entity named as Trustee in Article XI hereof, and any successor thereto.

Article XI of the Agreement appears as follows:

ARTICLE XI EXECUTION			
11.1	<b>EXECUTION.</b>	In witness of the foregoing promises and mutual covenants herein contained, the Parties have adopted and executed this Trust Agreement and the related Plan document as of the dates shown below:	
(a)	SPONSOR:	GOVERNMENTAL ALLIANCE OF OKLAHOMA, INC.	
	Signed by:	 Jim D. Duncan	Title: Executive Director
	Signature:		Date: December 1, 2004
(b)	ADMINISTRATOR:	GOVERNMENTAL ALLIANCE OF OKLAHOMA, INC.	
	Signed by:	 Jim D. Duncan	Title: Executive Director
	Signature:		Date: December 1, 2004
(c)	TRUSTEE:	GAO RETIREMENT COMMITTEE	
	Signed by:	 Hollis (Ed) Tinker, Jr.	Title: City Manager
	Signature:		Date: December 1, 2004
(d)	TRUSTEE:	GAO RETIREMENT COMMITTEE	
	Signed by:	 Susan White	Title: City Clerk
	Signature:		Date: December 1, 2004

Article VII Section 7.2 of the Agreement states:

**MORE THAN ONE TRUSTEE.** If there are more Trustees than one, all references to the Trustee are references to the Trustees.

Article VI Section 6.1 of the Agreement states:

**Resignation of Trustee.** The Trustee may resign at any time by giving written notice to the Sponsor at least 30 days before the effective date of such resignation. The Sponsor may remove the Trustee at any time by giving written notice to it at least 30 days before the effective date of such removal.

Article VI Section 6.2 of the Agreement states:

**Appointment of Successor Trustee.** In the event of the resignation or removal of the Trustee, the Sponsor appoints a new Trustee. Any successor Trustee has the same powers and duties as its predecessor in office.

Article VII Section 7.7 of the Agreement states, in part:

**APPOINTMENT OF ADDITIONAL TRUSTEES.** As long as the Trustee is not a corporation, the Sponsor may appoint additional Trustees.

On 10/18/2004 the City Commission voted on and approved Resolution 04-13. Resolution 04-13 provided for the termination of the previous defined benefit pension plan and directed the funds to be transferred to the new pension plan. Resolution 04-13 also reflected the following:

That the City manager and City Clerk of the City of Drumright, by [sic] appointed to serve as Trustees for the Employee Retirement System Defined Benefit Plan of the City of Drumright as of the 1<sup>st</sup> day of December 2004.

While the City Commission has appointed the city manager and city clerk (by positions) as Trustees of the pension plan, the language contained in the Agreement appears to bestow upon the sponsor, Governmental Employee Benefit Alliance Ltd. or Governmental Alliance of Oklahoma, Inc., the power to remove and appoint the Trustees.

**The Plan Document Is Inconsistent.**

The Adoption Agreement ratified by the City Commissioners included, in Section 10 EXECUTION BY ADOPTING EMPLOYER, the following language:

The undersigned Adopting Employer hereby adopts and applies to participate in the GAO Defined Benefit Pension Plan for the benefit of its Eligible Employees, Dependents and their Beneficiaries. The Adopting Employer hereby agrees to be bound by the Plan Document and the Trust Agreement.

Section 2, GENERAL PLAN PROVISIONS AND DEFINITIONS, of the Adoption Agreement appears as follows:

<b>2</b>	<b>GENERAL PLAN PROVISIONS AND DEFINITIONS</b>
This is: <input checked="" type="checkbox"/> the Initial Plan Adoption. The Effective Date is: <u>12 / 1 / 2004</u> .	
<input type="checkbox"/> an Amendment effective as of: <u>    /    /    </u> .	
3-Digit Plan Serial No.: <u>004</u>	

It appears that the Adoption Agreement is incorporating the Plan Document serial number 004. The City was unable to provide a Plan Document reflecting serial number 004.

We were provided a forty-one (41) page document entitled “Government Alliance of Oklahoma, Ltd. Defined Benefit Pension Plan – Plan Document”. This document was represented as being “the Plan” referred to in the Adoption Agreement and as being reflective of the terms and conditions of the Adoption Agreement.

We noted the Plan Document reflecting the sponsor as “Governmental Alliance of Oklahoma, Ltd.”; however the signature page reflects the sponsor as “Government Alliance of Oklahoma, Inc.”. We were provided an amended signature page for The Plan reflecting the signatures of Government Alliance of Oklahoma, Ltd.

According to records maintained by the Oklahoma Secretary of State, Governmental Employee Benefit Alliance, Ltd. was renamed Governmental Alliance of Oklahoma, Ltd. on 6/30/2005, approximately six months after the “approval” and effective date of the Plan Document.

The city manager and city clerk both stated that this document had not been prepared at the time the Adoption Agreement was approved. We noted the Plan Document reflected the sponsor as “Governmental Alliance of Oklahoma, Ltd”.

**The City approved a Plan Document that had not been prepared at the time of approval.**

Although the Adoption Agreement states, in part, "The Adopting Employer hereby agrees to be bound by the Plan Document and Trust Agreement" it appears the Plan Document did not exist at the time of adoption.

**The city attorney did not review the plan documentation prior to implementation.**

We interviewed the city attorney who stated that he was not asked and did not review the Plan Document or the Trust Agreement prior to approval by the City Commission.

**RECOMMENDATIONS:**

We recommend the City obtain pension plan documents that properly reflect the parties involved in the agreements. Furthermore, we recommend the City consult with their legal counsel prior to implementing contracts and agreements.

We recommend the appropriate authority review these findings to determine what action is considered necessary.

**CONCERNS:**

- **The GAO Retirement Plan was structured to benefit the city manager.**
  - **The city manager became instantly vested under the new plan.**
  - **The city manager received over ten (10) years service credit without having paid into the OMRF plan.**
  - **City Commission was not fully informed of the benefits granted to the city manager under the new retirement plan.**
- 

**FINDINGS:**

- **The city manager did become vested at the time the plan was adopted.**
  - **We question the basis for excluding the city manager from the OMRF plan.**
  - **The city manager received credit for years of service for which he had been previously compensated.**
  - **There is no clear definition of "elected official service".**
  - **The City Commission was not aware of all of the benefits received by the city manager.**
- 

The Adoption Agreement for the GAO Retirement Plan provided for the following service credits:

- Up to five (5) years credit for prior military service.
- Up to five (5) years credit for elected official service.
- A grandfathered ten (10) year vest "if employed prior to December 1, 2004".

**The city manager did become vested at the time the plan was adopted.**

Section 1 of the Adoption Agreement appears as follows:

Prior Service credit: Up to 5  Years  Months each of  Military Service  Elected Official Service

Section 8 of the Adoption Agreement appears as follows:

Grandfathered Vesting:  100% immediate  3-20  10-year cliff  5-15 year  
 \_\_\_\_\_% per year  Other- \_\_\_\_\_ if employed prior to December 1, 2004.

The city manager received credit for five (5) years military service. As a former City Council member for the City of McAlester (4/94 through 3/00) he also received five (5) years credit for "Elected Official Service".

The language found in Section 8 of the Adoption Agreement provides for a grandfathered 10 (ten) year vesting "if employed prior to December 1, 2004". The city manager was hired in February 2001.

Based on the options selected in the Adoption Agreement the city manager did become vested at the time the GAO Retirement Plan was adopted.

**We question the basis for excluding the city manager from the OMRF plan.**

The city manager was hired in February 2001. During the period from 2001 through 2004, when the GAO Retirement Plan was adopted, the city manager was not a participant in the City's defined benefit retirement plan with OMRF.

Section 1.1 of the OMRF plan documents reflects the following:

**1.1 ELIGIBILITY & PARTICIPATION**

All regular, full-time municipal employees of any department, including employees who are elected officials or in appointed offices, are eligible to participate *except firemen and policemen contributing into any other State retirement system*. Part-time employees are eligible only if stipulated in the plan document's Joinder Agreement. Any new employee who is over the age of 60 when hired shall not participate in the plan (unless otherwise stipulated the plan's Joinder Agreement).

**→ All employees (as defined above) will be required to participate as a condition of employment.**

We asked how the city manager was excluded from the OMRF plan and were directed to a provision in the OMRF Joinder Agreement reflecting the following:

The word "Employee" shall not include:

- Any person who is currently accruing benefits under any other state or local retirement system.
- Any person who is in the position of City Manager and covered under another retirement system which has been approved by the City Council.

We asked the city manager if, at the time of exclusion from the OMRF plan, he was drawing benefits from any other state or local plan and if he was drawing benefits from any other plan approved by the City Commission. He stated that he was not.

**The city manager received credit for years of service for which he had been previously compensated.**

As a result of being excluded from the OMRF defined benefit plan during the 2001 through 2004 period the city manager was paid \$29,359.88 in additional taxed compensation in lieu of the City paying contributions into the OMRF plan on behalf of the city manager.

The additional compensation was reported as taxable income and separate W-2 forms were issued.

Once the City transitioned from the OMRF defined benefit plan to the GAO defined benefit plan, the city manager was provided years of service credit for the time period that he previously received compensation in lieu of participating in the OMRF plan.

**Article X Section 15A** of the **Constitution of Oklahoma** states:

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

**There is no clear definition of “elected official service”.**

Although the Adoption Agreement appears to provide up to five (5) years service credit for Elected Official Service we were unable to find, in the Plan Document, a definition for what would be considered as qualifying Elected Official Service.

**The City Commission was not aware of all of the benefits received by the city manager.**

As previously noted in this report it appears that at the time the City Commission approved the Adoption Agreement the Plan Document had not been created and therefore, not presented to the City Commission for review. As previously noted in this report, the city attorney did not review the Plan Document.

At the time of our fieldwork three current members of the City Commission were members at the time of the transition from the OMRF to the GAO plan. The following is a summary of those interviews:

Commissioner #1 was aware that the city manager received five (5) years elected service credit. He was also aware that the city manager was receiving compensation in lieu of payments into the OMRF retirement plan. He could not recall if he was aware that the city manager received service credit for this time period although it would not have changed his position on adopting the new plan.

Commissioner #2 was not aware of the elected service credit given to the city manager. He was aware that the city manager was not paying into the OMRF retirement plan and

was being paid extra compensation. He was not aware that the city manager also received service credit for the years in which he had already been compensated. He did not believe the city manager should have been given service credit for the time he had already been compensated for and did not believe that the city manager should have been given credit for having previously served on a city council.

Commissioner #3 could not recall if he was aware that the city manager received credit for prior elected service. He was aware that the city manager was being compensated in lieu of participation in the OMRF retirement plan; however he was not aware that the city manager was also given service credit for the time in which he had already been compensated.

All three Commissioners were working under the belief that the city attorney had reviewed the retirement plan documents. As noted previously in this report, the city attorney had not reviewed any of the retirement plan documents.

**RECOMMENDATIONS:**

We recommend the City Commission consult with the city attorney to determine the benefits granted by adoption of the GAO retirement plan.

We recommend the appropriate authority review these findings to determine what action is considered necessary.

**CONCERN:**

- **Employees were limited to five (5) years service credit.**

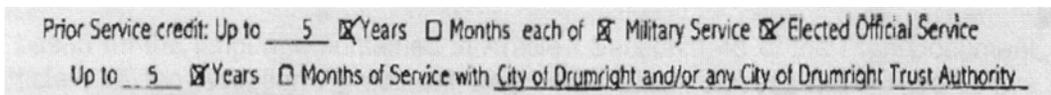
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**FINDINGS:**

- **Employees were not limited to five (5) years service credit for benefit calculations and retirement dates.**
- **Employees may have been limited to five (5) years credit for purposes of vesting.**

---

The concern appears to stem from the language contained in the Adoption Agreement approved by the City Commissioners. Section 1 of the Adoption Agreement, with regards to service credit, appears as follows:



The city manager stated this section of the Adoption Agreement was not intended to limit the amount of service credit to those employees that were transferring from the OMRF to the GAO pension plan. According to the city manager the intent of this provision was:

- To limit the number of years of service credit given to employees who retired from one of the other city divisions under a different retirement plan and who then subsequently became employed with a different division.
- To limit the number of years that could be claimed by an employee who may have had years of service credit in the past, but was not an employee at the time of the transition from the OMRF to GAO plan.

Article I Section 1.44 of the Plan Document states, in part:

YEAR OF BENEFIT SERVICE: The term "Year of Benefit Service" shall mean an employee's Years of Service with an Adopting Employer, excluding periods while employed with an Affiliated Employer which is not an Adopting Employer, and shall be based on the Participant's Years of Service with the Adopting Employer, or on the Participant's Years of Service as a Participant in the Plan, elected in the Adoption Agreement.

Section 8 of the Adoption Agreement appears as follows:

7 ACCRUED BENEFIT  
Benefit Service based on:  Service  Participation  
Years:  Year of Benefit Service based on  1,800 Hour(s) of Service  elapsed time.  
Months:  Month of Benefit Service based on  \_\_\_\_\_ Hour(s) of Service  elapsed time.

Article I Section 1.45 of the Plan Document states, in part:

YEAR OF SERVICE: The term "Year of Service" has a different meaning with respect to plan eligibility and vesting, as follows:

Article I Section 1.45 (c) states:

Prior Service Credit: An employee will also receive credit for all Years of Service with the Predecessor Employer named in the Adoption Agreement. However, no Participant shall be granted more than the number of Years of Service or Months of Service elected in the Adoption Agreement.

We were provided a copy of the 6/30/2005 Actuarial Report for the GAO pension plan. Included in the report was a schedule of *years of credited service*. The schedule reflects that employees were granted more than five (5) years of credited service.

We were provided a listing of employees along with employee hire dates. Based on the information provided and the language contained in Section 8 of the Adoption Agreement and Article I Section 1.44 of the Plan Document, it appears that employees were granted more than the five (5) years benefit service credit.

Based on the language contained in Article I Section 1.45 of the Plan Document, as well as Section 1 of the Adoption Agreement, we question if employees are limited to five (5) years credit for purposes of calculating vesting dates.

**RECOMMENDATION:**

We recommend the City Commission consult with their legal counsel to determine if, in fact, years of service credit for purposes of vesting has been limited and take what action is necessary to clarify the purpose and intent of the City Commission.

**CONCERN:**

- **Discrepancy in funds provided by OMRF and received by Ameritas.**
- 

**FINDINGS:**

- **The funds were wired directly from OMRF to Ameritas.**
  - **We confirmed Ameritas received the amount wired.**
- 

This concern, as related to us, was that not all of the funds that were transferred from the OMRF Defined Benefit Plan were deposited in the Ameritas account.

City officials provided us with a copy of an email dated 12/20/2004 between an OMRF employee and an Ameritas employee, with a carbon copy sent to the city clerk. The email reflects that OMRF was prepared to wire \$1,029,874.77 to Ameritas.

We obtained documentation from OMRF reflecting that \$1,029,874.77 had been electronically transferred from OMRF to Ameritas with the notation "City of Drumright DB plan termination".

We obtained a letter dated 12/23/2004 from an Ameritas official reflecting the amount of \$1,029,874.77 had been deposited with Ameritas.

Based on the documentation obtained it appears the funds were electronically transferred directly from OMRF to Ameritas.

**RECOMMENDATION:**

No recommendation necessary.

**CONCERN:**

- **The City caused an unfunded liability to increase as a result of changing pension plans.**
- 

**FINDINGS:**

- **There are no statutory requirements for funding levels of a public pension.**
  - **The City appears to be following the advice of the Actuary.**
-

This concern appears to be based on two actuarial reports issued for the OMRF and GAO retirement plans in March 2004 and June 2005, respectively. The March 2004 actuarial report, for the OMRF plan, reflects an unfunded actuarial liability of \$300,182.00. The June 2005 actuarial report, for the GAO plan, reflects an initial unfunded liability of \$896,791.45, a difference of \$596,609.45.

We noted that unfunded liability amounts are listed for the period from 1996 through 2003. During this period the unfunded liability amount ranges from a low of \$116,588 (1997) to a high of \$458,842 (1999).

In addition to the actuarial reports this concern appears to also be based, at least in part, on a portion of a letter from the GAO plan actuary, dated 11/15/2003, stating, in part:

Although we believe that the plan's performance is over the next several years is likely to be satisfactory [sic], you should note that as a result of the experience of the past 4 years in the OMRF, your plan is currently underfunded by several hundred thousand dollars. In fact, the assets allocated to the City of Drumright are barely sufficient to provide retirement benefits to current retirees.

The Encyclopedia Britannica describes the functions of an actuary as follows:

Actuaries compute the probability of the occurrence of such events as birth, marriage, illness, accidents, and death. They also evaluate the hazards of property damage or loss and the legal liability for the safety and well-being of others. Usually employed by insurance companies, actuaries set premium rates based on statistical studies, establish underwriting procedures, and determine the amounts of money required to assure the payment of benefits. [ea].

We obtained a letter from the Actuary for the GAO plan dated 5/13/2004 stating, in part:

In addition to the benefits available under your current plan, we also projected costs relating to the "20 & out" or "70 point" features. The contribution for the "20 & out" plan ranges from 18.85% to 23.32% of payroll.

We contacted the Actuary for the GAO plan who stated that typically under funding is calculated based on future projections of retirement obligations versus what is presently being contributed to the system. The funds are reviewed annually and the actuary makes recommendations to the plan administrators who may elect to follow all, part, or none of the recommendations.

We inquired of the Actuary whether the City was following the recommendations that were being made as a result of the actuarial studies. The Actuary stated that the City has followed the recommendations that have been made and stated, "I believe they have acted very responsibly". The City is contributing a payroll percentage within the range of the recommendations made by the GAO plan Actuary.

We find no statutory requirements for funding levels for public pension plans.

While a fully funded pension plan is better than one that is underfunded, simply being underfunded does not mean that a particular plan cannot or will not meet future obligations. Pre-funded public pension plans, such as the GAO plan, continue to require contributions and investment earnings.

Furthermore, public pension plans that are underfunded continue to meet retirement benefit obligations. Underfunding is, essentially, a snapshot of funding conditions, at a given point in time.

**RECOMMENDATION:**

No recommendation necessary.

**CONCERNS:**

- The city manager's salary increased from \$85,341 in 2004 to \$116,150 in 2005. The city clerk's salary increased from \$59,213 in 2004 to \$134,998 in 2005.
  - Drumright is number one in their class in compensation for the city manager and city clerk.
- 

**FINDINGS:**

- Amounts reported in the annual audits include other expenses in addition to salaries.
  - It is within the Board's discretion to establish the compensation of City employees.
  - The Commission approves payroll in a lump-sum manner.
- 

The first concern stems from the following expense amounts reported in the annual independent audits:

Fiscal year 2004:

Functions/Programs	Expenses
<b>Governmental activities:</b>	
General government:	
City clerk	\$ 59,213
City manager	85,341
General government	211,821
Total general government	356,375

Fiscal year 2005:

Functions/Programs	Expenses
<b>Governmental activities:</b>	
General government:	
City clerk	\$ 134,998
City manager	116,150
General government	145,387
Total general government	396,535

Based on documentation obtained, the reported expense amounts for the city manager and city clerk reflect expenses in addition to the actual salaries. Included in the amounts are expenses for social security, retirement and hospitalization. The expense amounts also consist of maintenance and operations expenses such as travel and training. In 2005, capital outlay expenditures were classified as city clerk expenses resulting in the substantial increase in city clerk expenses from 2004 to 2005.

As reflected on the Budget Report, the city manager and city clerk's actual salaries are as follows:

	2004	2005
<b>City manager:</b>		
Base Salary	\$59,360.35	\$77,304.50
Salary Plus Benefits	\$76,100.50	\$102,272.33
<b>City Clerk:</b>		
Base Salary	\$44,189.72	\$56,014.60
Salary Plus Benefits	\$58,378.50	\$75,178.97

In addressing whether the City of Drumright is number one in their class in compensation for city officials, it was necessary to consider the following:

- Whether the Commission has the sole authority to establish the compensation of their employees.
- If so, whether or not the Commission approved the compensation.
- Whether state statutes or the city charter establish maximum compensation limitations for city officials.

According to Article II Section 9 and 10 of the City Charter:

Except as otherwise provided in this Charter, all powers of the City, including the determination of all matters of policy, shall be vested in the Commission. Without limitation of the foregoing, the Commission may:

...fix salary and compensation of officers and employees of the City, including the salary of the City manager.

It appears the City Charter authorizes the Commission to fix the compensation of employees and we found no state statute establishing salary limitations.

If the Commission has the authority to establish the compensation of employees and statutes do not limit the amount of compensation, then whether Drumright was number one or not would be irrelevant.

Based on the foregoing, it appears that it is within the Commissioner's discretion to establish salary amounts for City employees.

In determining whether the Commission approved the salaries of the city manager and clerk, it was noted that the Board approves salaries in a lump-sum manner when approving the budget. We were provided a document indicating city employees received salary increases for fiscal year 2004-05. Documentation indicates both the city manager and city clerk received 17 % salary increases. An interview with the finance director indicated that salary increases are reviewed by the budget committee and are not specifically approved by the Commission.

**RECOMMENDATION:**

We recommend that separate Commission approval be obtained for any issues in employee compensation other than normal payroll, such as employee raises and bonuses.

**CONCERN:**

- **Are employees paid for PTO (paid time off)? Can employees accumulate PTO until retirement and boost their retirement benefit?**
- 

**FINDING:**

- **A policy provision authorizes compensation for paid time off in excess of the accrual limit for non-exempt employees.**
  - **Compensation for paid time off appears to be nominal.**
- 

The policy provision authorizing the payment for paid time off provides in relevant part:

In the event that available PTO is not used by the end of the benefit year, employees may carry unused time forward to the next benefit year. When the total amount of unused PTO reaches a "cap" equal to 160 hours the bi-weekly accrual will be placed into the **Extended Illness Accrual Bank (EIAB)**. The **EIAB** accrual will be capped at 640 hours. The City places 2 hours each pay period into the **EIAB** account for each employee. When the **PTO** and the **EIAB** accruals have reached the cap limits the bi-weekly accruals, for **PTO** only, will be paid to the employee in the last payroll of the month following the month in which it was earned.

Based on the policy provision it appears that non-exempt employees may receive compensation for paid time off for those hours accrued over the 640 hour limit. Based on the policy, employees would receive compensation for only paid time off over and above the maximum accruals. According to the finance director, very few employees that have been compensated for paid time off. The finance director verified that in the last 6 months one employee has been compensated for a total of \$667.49.

Compensation for paid time off would increase an employee's income, which would effectively boost the retirement benefit. However, based on an interview with the finance director the benefit increase would be nominal. Further, whether the increase is nominal or not has no bearing since compensation for paid time off does not appear to be precluded by statute.

**RECOMMENDATION:**

No recommendation necessary.

**CONCERN:**

- **Commissioners are not aware of the Christmas bonus received by employees.**
- 

**FINDING:**

- **Employees do not receive a Christmas Bonus.**
- 

Based on a review of payroll check registers for November and December 2005 and an interview with the finance director, employees do not receive a Christmas bonus.

**RECOMMENDATION:**

No recommendation necessary.

**CONCERN:**

- **Personal use of city manager's vehicle is reported as a fringe benefit on his W-2, which increases his retirement benefit.**
- 

**FINDING:**

- **Reporting the \$20.00 fringe benefit for the employer provided vehicle appears to be an IRS requirement.**
- 

The value of the fringe benefit for the city manager's vehicle totals approximately \$20.00 a year. This amount is calculated based on the estimated distance of 1/10<sup>th</sup> of a mile between his home and city hall and includes fuel use.

Since the value of the vehicle benefit is reported on the city manager's W-2 this would effectively boost the retirement benefit. Given the minuscule amount of this fringe benefit it appears any affect on the city manager's retirement benefit would be negligible. Based on conversations and documentation, the practice of including this amount on the city manager's W-2 appears to be an IRS requirement rather than a scheme to increase the retirement benefit.

**RECOMMENDATION:**

No recommendation necessary.

**CONCERN:**

- **Bond issues that were promoted to benefit the hospital were used for other purposes.**
- 
- **Bond proceeds appeared to be used consistently with guidelines set forth in Board Resolutions and the use of sales tax proceeds appeared to be used in accordance with the Propositions approved by Drumright voters.**
- 

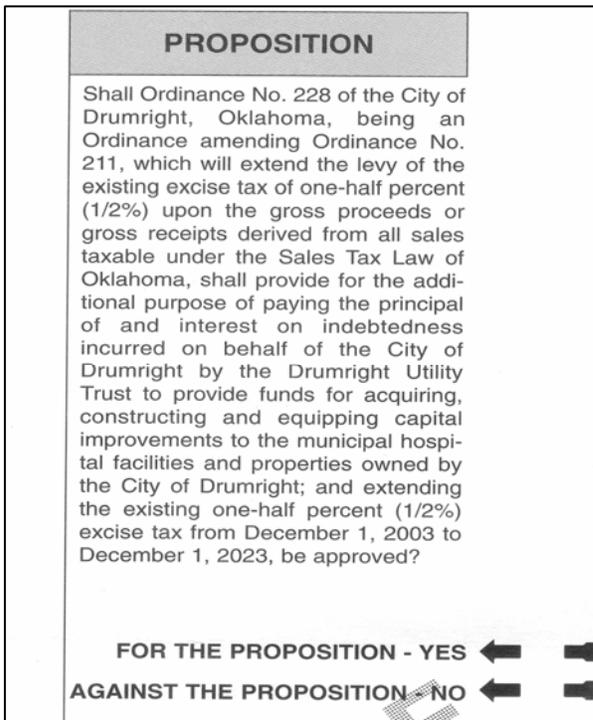
**2001 Bond Issue**

On July 10, 2001 the Drumright Utility Trust passed Resolution 01-15 authorizing the issuance of Utility System Refunding Revenue Bonds Series 2001 not to exceed \$1,900,000.00. The language in Resolution 01-15 indicates bond proceeds are not limited to hospital improvements. This is evidenced by the first paragraph of the Resolution, which reads as follows:

WHEREAS, the Trustees of the Drumright Utility Trust have determined to issue an aggregate principal amount of not to exceed \$1,900,000.00 Utility System Revenue Bonds Series 2001 of the Authority to retire existing indebtedness of the Authority and to provide funds for improvements to the library, parks, sidewalks and hospital facilities and properties of the City of Drumright, Oklahoma, the beneficiary of the Authority and to retire certain outstanding indebtedness of the Authority; and

Based on the wording in Resolution 01-15, it appears the bond proceeds can be used for improvements to any City owned facility or property.

In addition to issuing bonds, the City passed Ordinance No. 228, which was contingent on the citizens voting in favor of the Proposition in the June 12, 2001 sales tax election.



Based on the sample ballot of the June 12, 2001 election, the purpose of the election was to extend the ½% sales tax levy established by Ordinance No. 211. In addition to providing funds for paying the principal and interest on indebtedness, language contained in the ballot indicates proceeds from the sales tax can be used for purposes other than improvements to the municipal hospital. The wording in the ballot "to provide funds for acquiring, constructing and equipping capital improvements to the municipal hospital and **properties owned by the City of Drumright**" [emphasis added] indicates proceeds are not limited to only municipal hospital improvements.

By voting in favor of the Proposition, it appears the City was authorized to use the sales tax proceeds for any facility or property owned by the City.

**Disposition of 2001 Bond Proceeds**

The net proceeds of the \$1,835,000 Bond issue, after paying the associated issue costs, were approximately \$1,182,374. Based on the documentation provided, the following table summarizes the disposition of the 2001 bond proceeds:

Purpose	Amount
Hospital Improvements	\$1,000,001.00
Broadway Sidewalk Project	\$53,123.78
Park Improvements	\$65,887.24
Library Improvements	\$15,005.62
Economic Development	\$25,526.93
Purchase CD	\$20,000.00
General Fund	\$2,829.82
<b>Total</b>	<b>\$1,182,374.40</b>

The language of Resolution 01-15 provides for broad terms governing the use of bond proceeds that appeared to allow capital expenditures for any City owned property. Therefore, the use of bond proceeds appears to be consistent with guidelines set forth in Resolution 01-15.

**2006 Bond Issue**

On April 10, 2006 the Utility Trust passed Resolution 06-03 authorizing the issuance of Utility System Refunding Revenue Bonds Series 2006 not to exceed \$3,750,000.00.

As with the 2001 issue, the language in Resolution 06-03 indicates bond proceeds are not limited to hospital improvements. This is evidenced by the first paragraph of the Resolution, which reads as follows:

A RESOLUTION RELATING TO THE INCURRING OF INDEBTEDNESS BY THE TRUSTEES OF DRUMRIGHT UTILITY TRUST TO BE ACCOMPLISHED BY THE ISSUANCE OF UTILITY SYSTEM REFUNDING REVENUE BONDS SERIES 2006 IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$3,750,000.00 TO PROVIDE A PORTION OF THE FUNDS REQUIRED TO RETIRE CERTAIN OUTSTANDING INDEBTEDNESS OF THE AUTHORITY, TO PROVIDE FUNDS TO EQUIP, OPERATE AND MAINTAIN HOSPITAL FACILITIES AND PROPERTIES OF THE CITY AND TO PROVIDE FUNDS FOR CAPITAL IMPROVEMENTS OF THE CITY; AND DECLARING AN EMERGENCY

Based on the wording in Resolution 01-15, it appears the bond proceeds can be used for improvements to any City owned facility or property.

Also, on February 14, 2006 the citizens voted in favor of another sales tax amendment, which extended the sales tax from December 1, 2023 to April 1, 2036. The sample ballot for this election contained similar language to the 2001 election ballot. As with the first Proposition, the 2006 ballot also contained language authorizing proceeds from the ½% sales tax to be used to pay principal and interest on indebtedness and capital improvements of the City. The minor exception to the wording is reflected as follows:

...to provide funds for capital improvements of the City of Drumright and for paying the expenses of equipping, operating and maintaining the municipal hospital facilities and properties owned by the City of Drumright...

This modification allowed the City to use the proceeds for general operating expenses for the hospital and other properties owned by the City, whereas the previous wording was more restrictive by limiting the expenditures for capital improvements. Again, the Proposition, voted on by the citizens, did not limit the City to hospital related expenditures.

**Disposition of 2006 Bond Proceeds**

The following table describes the disposition of the \$3,498,600.00 proceeds for the 2006 bond issue:

<b>Purpose</b>	<b>Amount</b>
Pay Off 2001 Bonds	\$1,621,452.68
Deposit to Sinking Fund	\$233,212.50
Bond Fees	\$229,961.20
Loan for Hospital	\$511,250.00
Deposited to Utility Fund	\$902,723.62
<b>Total</b>	<b>\$3,498,600.00</b>

Of the 902,723.62 deposited to the Utility Fund, \$490,097.95 was used for hospital related debt, \$98,652.05 was provided to the hospital; a fire truck was purchased for \$240,429.00 and the purchase of a backhoe for \$54,353.07. As of the end of our audit period there is \$19,191.55 remaining in the Utility Fund.

The broad terms of Resolution 06-03 appears to allow for virtually any valid expenditure related to any City property. Therefore, expenditures related to the 2006 bond issue appear to be consistent with the conditions set forth in Resolution 06-03.

**Sales Tax**

According to the finance director, all the 2001 bond issue sales tax proceeds have been used towards the principle and interest payments on the bonds. Only after the 2006 bond issue became effective has there been a sufficient amount of sales tax collections to make the principle and interest payments. Prior to the 2006 bond issue the additional amount needed was paid from the Utility Trust account.

**RECOMMENDATION:**

No recommendation necessary.