

OPERATIONAL AUDIT

COMMISSION ON marginally PRODUCING OIL AND GAS WELLS

For the period January 1, 2010 through March 31, 2012



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



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

**Audit Report of the
Commission on Marginally
Producing Oil and Gas Wells**

**For the Period
January 1, 2010 through March 31, 2012**



Oklahoma State Auditor & Inspector

2300 N. Lincoln Blvd. • State Capitol, Room 100 • Oklahoma City, OK 73105 • Phone: 405.521.3495 • Fax: 405.521.3426

October 18, 2012

TO THE CITIZENS OF OKLAHOMA:

Our audit finds that the Commission on Marginally Producing Oil and Gas Wells has failed to correct internal control deficiencies which were previously exposed during each of the Agency's past two audits (together, the past two audits covered the period January 1, 2006 through December 31, 2009). Management's negligence has since allowed for wide spread abuse and potential fraud, resulting in questioned costs of \$10,028.

Issues noted in the report include prohibited purchases, inconsistent travel claim dates, excessive trip duration, and missing records. Considering the instances of abuse and potential fraud identified, the Commission and the Department of Central Services should increase their monitoring of Agency management.

In addition, the Legislature should consider evaluating whether this agency might be consolidated with another agency to provide better over-site or whether their mission could be accomplished without being a part of state government.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary A. Jones".

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

Commission on Marginally Producing Oil and Gas Wells Operational Audit

Purpose, Scope and Methodology

This audit was conducted in response to 74 O.S. § 212, which requires the State Auditor and Inspector's Office to audit the books and accounts of all state agencies whose duty it is to collect, disburse or manage funds of the state. The audit period covered was January 1, 2010 through March 31, 2012.

In planning and conducting our audit, we first determined if and when management implemented corrective action in response to the prior period audit findings. Management indicated corrective action was taken in January 2011 by contracting with the Office of Management and Enterprise Services' (OMES) Agency Business Services division to record transactions into PeopleSoft, the state's accounting system. Therefore, our internal control procedures only relate to the period January 1, 2011 through March 31, 2012. We obtained an understanding of the Agency's internal controls for revenues and expenditure (including payroll) through discussions with Agency personnel, observation, and review of documents.

As a result of control deficiencies identified during this period, our procedures were expanded. From the period January 1, 2010 through March 31, 2012, we compared a 10 month selection (3 haphazardly and 7 randomly) of the Public Affairs Officer's (PAO) travel claims and purchase card documentation for consistency. The sampling methods were designed to produce a representative selection so the results could be projected as appropriate. We also reviewed the electronic banking documentation from July 1, 2011 to March 31, 2012 to identify any unusual or unexpected vendors.

We ensured the executive director's salary did not exceed the maximum limit set forth in 74 O.S. § 3601.2 (A) (3) by reviewing PeopleSoft accounting system records.

Background

The Commission on Marginally Producing Oil and Gas Wells (the Agency) was created by the legislature in 1992 to define, identify, and evaluate the economic and operational factors of marginal oil and gas wells and to work to encourage well operators and elected officials to make appropriate efforts to extend the wells' lives. The Agency is primarily funded by a fee of \$.0035 per barrel of crude oil and \$.00015 per thousand cubic feet of natural gas produced in the state. Additional revenues are generated through workshops and an annual trade expo.

Staffing currently consists of three employees, including the executive director.

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The Agency is overseen by a nine-member commission (the Commission) selected from the oil, natural gas and royalty owner associations, Osage County, and the four districts of the Corporation Commission.

Current Commission members are:

Paul L. Bruce.....	Chairman
Thomas F. Dunlap.....	Vice-Chairman
Ken Kerrihard.....	Secretary
David Moore.....	Member
David Guest.....	Member
Stan B. Noble.....	Member
A. Hearne Williford.....	Member
Mitch McAbee.....	Member
Ramiro Rangel.....	Member

Table 1 summarizes the Agency's sources and uses of funds for state fiscal years 2011 and 2010 (July 1, 2009 through June 30, 2011).

Table 1 - Sources and Uses of Funds for SFY 2011 and SFY 2010

	2011	2010
Sources:		
Marginal Well Fees	\$ 537,941	\$ 563,781
Other Grants, Refunds, Reimb.	146,134	168,278
Total Sources	<u>\$ 684,075</u>	<u>\$ 732,059</u>
Uses:		
Personnel Services	\$ 310,506	\$ 310,558
Professional Services	40,912	71,232
Travel	49,328	41,911
Miscellaneous Administrative	124,757	98,981
Rent	28,389	24,781
General Operating Expenses	45,017	51,723
Office Furniture and Equipment	2,683	12,415
Refunds, Idemnities, Restitution	-	11,670
Other	1,234	5,554
Total Uses	<u>\$ 602,826</u>	<u>\$ 628,825</u>

Source: Oklahoma Peoplesoft Accounting System (unaudited, for information purposes only)

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Objective - To determine if the Agency's internal controls provide reasonable assurance that revenues and expenditures (including payroll) were accurately reported in the accounting records and financial operations complied with 74 O.S. § 3601.2 (A) (3) .

Conclusion

For the *third consecutive audit report*, the State Auditor and Inspector's Office has determined the *Agency's internal controls do not provide reasonable assurance* that revenues and non-payroll expenditures were accurately reported in the accounting records. This audit includes payroll in this conclusion as well.

This report will show how *management's indifference towards internal controls* has led to *wide spread abuse¹ and potential fraud* resulting in identified questioned costs of \$10,028.

Financial operations complied with 74 O.S. § 3601.2 (A) (3) regarding the executive director's salary.

Observation

The Commission and management are responsible for establishing and maintaining an effective internal control system that provides reasonable assurance financial records are reliable, operations function effectively and efficiently, and applicable laws and regulations are followed.

Oklahoma state statutes and the Department of Central Services' purchase card (p-card) agreement require the retention of expenditure supporting documentation and provide penalties for non-compliance.²

Actions management can perform to provide this reasonable assurance include ensuring effective reviews occur, employees are properly supervised, transactional support is clearly documented, retained, and readily available for examination, and one individual does not control all key aspects of a transaction or event.

The Executive Director's management has resulted in *ineffective review, oversight, and record retention practices as well as inadequate segregation of duties* allowing abuse, potential fraud, and policy violations to occur.

- Comparison of employee timesheets and OMES leave reports *indicates inconsistencies*, even though the executive director stated he performed a review of both documents.

¹ *Government Auditing Standards* 7.33 defines abuse as behavior that is improper when compared with behavior that a prudent person would consider reasonable and necessary business practices or misuse of a position for personal financial interest.

² See statute and p-card agreement details in Appendix I.

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- P-card) transactions were *not reviewed* by the p-card administrator or the executive director.
- *P-card receipts and detail statements were not retained* as part of the Agency's records. Management relied on employees to retain their own records. Only one of the two p-cardholders retained records, which we often found to be incomplete.
- *The public information officer (PIO) controlled several key aspects of the revenue process.* She was responsible for manually receipting fees from workshop registrations and merchandise sales, as well as preparing and delivering the bank deposit.

The result of management's ineffective review, oversight, and record retention practices can first be illustrated through **\$3,096 in questionable p-card purchases**. These approved purchases were questioned because *no receipts were retained*. Management indicated the PIO and PAO were sent to the same state p-card training and were aware of the policy to retain all receipts.

Early interviews with the PIO indicated that she was never asked for receipts and did not retain them. She resigned in May 2012; our office attempted to contact her, but she did not respond to our voicemails.

The PAO, who also became the p-card administrator in approximately February 2011, stated his purchases related to Agency hosted workshops, but he could not provide any documentation to support his claims.

PIO's Questionable Transactions (\$2,976)³:

- Apple iTunes - \$62
- Hertz Rental - \$564
- Wal-Mart - \$528
- Pappadeaux Seafood Kitchen (Dallas, TX) - \$55
- Ampco Parking - \$42
- Orbitz - \$1,296
- Delta Airlines - \$422
- Republic Parking - \$7

Executive
Director
approved
\$3,096 in p-
card purchases
without
original
receipts.

³ The PIO's total transactions during the period July 2011 through March 2012 equaled \$13,196.


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P-card Administrator's Questionable Transactions (\$120)⁴:

- Blue Moon Bakery - \$32
- Starbucks - \$36
- Subway - \$52

Further illustrations were identified when a comparison of the PAO's travel claims and p-card documentation revealed *inconsistencies, abuse, and potential fraud*.

- The PAO charged \$127.77 in *prohibited purchases* to his p-card. These charges were for food/beverages on dates which he also received per-diem reimbursements.



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Trix, Ricky
411 N W 13th St
Suite 180
Oklahoma City, OK 73103

Acct No.: 8A002U
Room No.: H744
Arrival: 05/22/11
Departure: 05/27/11
No. in Party: Ad-1
Rate: 135.76

Page# 1
DL

date	Reference	Description	r	Charges	Credits
04/29/11	DV 1	XXXXXXXXXXXX8056	DG		144.97
05/22/11	PV 1	XXXXXXXXXXXX8056	TB		579.88
05/22/11	PKG 1	CP+Tax Single	--	130.90	
05/22/11	RTAX 1	Package Tax	--	8.04	
05/22/11	CCTAX 1	COUNTY TAX	--	3.99	
05/22/11	RRTIP 1	Restaurant Gratuity	--	1.35	
05/22/11	RRTAX 1	Restaurant Tax	--	0.69	
05/23/11	PTM018 1	Mountain Perk #0089	IP	4.24	
05/23/11	PTM001 1	Bavarian Lounge #0155	IP	20.60	
05/23/11	PKG 1	CP+Tax Single	--	130.90	
05/23/11	RTAX 1	Package Tax	--	8.04	
05/23/11	CCTAX 1	COUNTY TAX	--	3.99	
05/23/11	RRTIP 1	Restaurant Gratuity	--	1.35	
05/23/11	RRTAX 1	Restaurant Tax	--	0.69	
05/24/11	PTM002 1	Dining Room #0070	IP	29.44	
05/24/11	PTM001 1	Bavarian Lounge #0257	IP	26.85	
05/24/11	PKG 1	CP+Tax Single	--	130.90	
05/24/11	RTAX 1	Package Tax	--	8.04	
05/24/11	CCTAX 1	COUNTY TAX	--	3.99	
05/24/11	RRTIP 1	Restaurant Gratuity	--	1.35	
05/24/11	RRTAX 1	Restaurant Tax	--	0.69	
05/25/11	PTM018 1	Mountain Perk #0178	IP	4.24	
05/25/11	PKG 1	CP+Tax Single	--	130.90	
05/25/11	RTAX 1	Package Tax	--	8.04	
05/25/11	CCTAX 1	COUNTY TAX	--	3.99	
05/25/11	RRTIP 1	Restaurant Gratuity	--	1.35	
05/25/11	RRTAX 1	Restaurant Tax	--	0.69	
05/26/11	PTM002 1	Dining Room #0118	IP	32.20	
05/26/11	PKG 1	CP+Tax Single	--	130.90	
05/26/11	RTAX 1	Package Tax	--	8.04	
05/26/11	CCTAX 1	COUNTY TAX	--	3.99	
05/26/11	RRTIP 1	Restaurant Gratuity	--	1.35	
05/26/11	RRTAX 1	Restaurant Tax	--	0.69	
BALANCE DUE				\$	117.57

- The PAO *charged additional lodging* for nights that occurred more than 24-hours before or after the business event on at least three occasions. Information provided by both the PAO and the airlines brings into question whether these additional nights were truly to conduct state business.

⁴ The PAO's total transactions during the period July 2011 through March 2012 equaled \$70,747.

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In one instance, a comparison of p-card expenses to the travel claim revealed the business event in State College, Pennsylvania concluded on November 18, 2011; however, lodging charges of \$271 were noted for November 19 – 20, 2011 in Washington, D.C. Per diem for the Washington, D.C. nights was not claimed nor was the additional time disclosed on the travel claim.

PAO charged additional lodging for nights that occurred more than 24-hours before or after the business event.

Justification for November 19 was to attend a *three hour meeting* with a Federal Energy Regulatory Commission representative. Discussions with the PAO revealed he had carpooled with the representative from State College to Washington, D.C. on November 18.

The November 20 lodging justification was a *flight cancellation due to weather*; however, an American Airlines representative verified the flight operated as scheduled.

Return flight from Washington, DC was delayed due to weather – had to return the next day as a result.

SOURCE: PAO documentation presented as support for claim #4237

- *Parking receipt dates were inconsistent with travel claim dates* on three occasions.

In one case, *the airport parking receipt had an entry date of June 30, 2010*, although *the PAO entered travel status on June 27, 2010* and sought reimbursement of \$213 for the three days on his travel claim. We were unable to verify whether the Agency paid for the three days of lodging because the Agency was *unable to provide us with detailed p-card statements* for this time period.

Parking receipt dates were inconsistent with travel claim dates.

- Further questionable activities included three occasions where *out-of-state lodging was charged* to his p-card, but *no travel reimbursement claim was filed*. Although the net effect to the employee is a loss of per diem reimbursement, this practice leads a prudent person to question the true business nature of the trip.

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One example occurred on August 1 - 8, 2011 in Washington D.C. where \$898 in *lodging was charged* to his p-card, but *no corresponding travel claim was found*.

The frequency of the PAO's travel, duration of trips given the nature of business, and accumulation of compensatory time during travels, further illustrates management's ineffective oversight.

A schedule of the travel conducted by the POA during the ten months selected is as follows:

March 2010						
Su	M	T	W	T	F	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

June 2010						
Su	M	T	W	T	F	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

July 2010						
Su	M	T	W	T	F	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

October 2010						
Su	M	T	W	T	F	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

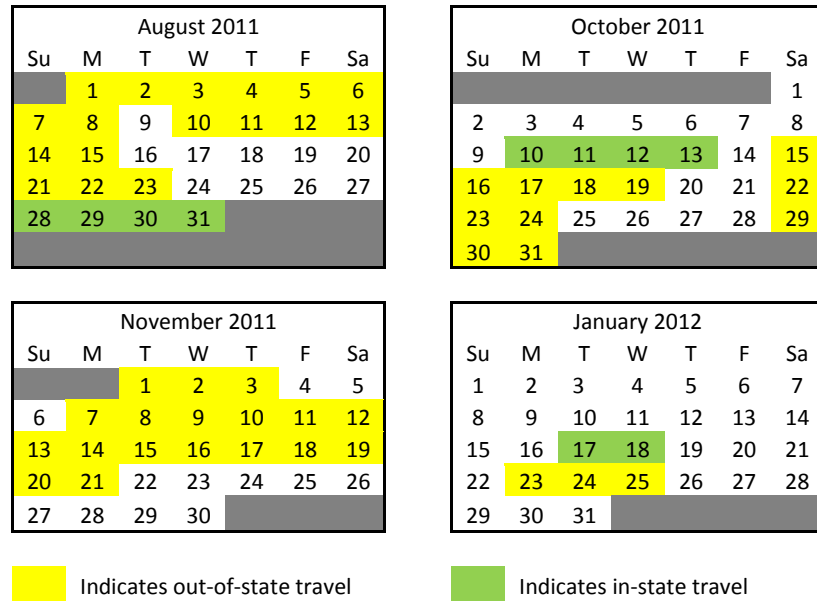
April 2011						
Su	M	T	W	T	F	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

May 2011						
Su	M	T	W	T	F	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Indicates out-of-state travel

Indicates in-state travel

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The PAO’s trip duration appeared excessive given the nature of the business trip on two occasions. For example, the Agency spent \$764 in travel expenses alone for the PAO to spend *three days in Washington D.C.* for the sole purpose of attending a *2.5 hour “bipartisan policy discussion.”* Auditor analysis revealed a video of the discussion was made available to the public online.

In some cases, the PAO also appears to have accrued compensatory time for voluntary activities that occurred during his travels. For example, on November 11, 2011, five hours of *compensatory hours were accrued for attending a “Prayer Breakfast,” an “International Committee Wine & Cheese Reception” and a “Closing Reception & Dinner Speak Easy.”*

Leave records indicate that the PAO *received two compensatory time payouts* during the audit period for a total of 61.5 hours. The Agency was unable to provide supporting documentation for the amount paid; however, OMES Records indicate it was approximately \$1,200.

Additional *p-card policy violations* such as *not purchasing* air fare and rental cars from *mandatory statewide contracts* are also a direct result of the internal control deficiencies.

Management’s ineffective review, oversight, and record retention were also noted in the revenue process when *bank deposits records* appeared to have been *removed* from the bank deposit slip book and *deposits* made were *never recorded* into PeopleSoft.

For example, a January 11, 2012 bank receipt for \$18,250 could not be traced to a corresponding bank deposit slip. From review of the bank

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deposit slip book, it appears records were removed for this transaction and others. In addition, two bank receipts, totaling \$10,085, were never entered into PeopleSoft.

Recommendations Considering the instances of abuse identified as a result of management's failure to establish and maintain an effective internal control process, monitoring activities of this Agency should be increased.

The Commission should assume a more active role to ensure management implements necessary actions to establish and maintain an effective internal control process. Actions management could take include ensuring:

- An employee independent of the workshop receipting process reconciles forms/attendance records to fees deposited in the bank. Currently, there is no evidence of such a review.
- The executive director performs a detailed review of all expenditures (including p-card and payroll) with supporting documentation prior to approving. Any reimbursement attributable to the executive director should be reviewed in detail by the Commission.

The Commission should also evaluate whether the extensive out-of-state travel conducted by the PAO is truly assisting in achieving the Agency's purpose and is an effective use of public resources.

The Department of Central Services (DCS), who oversees the p-card program, should increase their oversight of this Agency's p-card activities. DCS should also evaluate whether the Agency be allowed to continue participating in the p-card program.

The Attorney General's office should evaluate the PAO's activities presented in this report to determine if further investigation is warranted.

Views of Responsible Officials

Pursuant to the September 6, 2012 commission meeting, the commissioners have activated a new Financial Oversight Committee to review and implement improved financial control procedures, including the following:

- The Agency will stamp all checks for deposit, and receipts will be completed daily and reviewed by at least two people in the Agency. The checks and deposit slip will be sealed in a tamper-resistant bag and then taken to a State Treasury approved bank. Copies of bank deposits will be scanned and emailed to Office of

Commission on Marginally Producing Oil and Gas Wells Operational Audit

Management and Enterprise Services' (OMES) Agency Business Services, who will enter the information into PeopleSoft.

- Receipts for all p-card purchases will be reconciled to bank (p-card) statements and reviewed and approved by the executive director. The receipts will be kept in a central filing system and will also be scanned and sent to OMES' Agency Business Services for additional recordkeeping. Furthermore, the PAO submitted payment of \$127.77 to the Agency for incidental charges included with lodging, and the amount was deposited on September 19, 2012.
- Mandatory statewide contracts for airfare and car rentals will be utilized. The executive director will approve Travel Request Claim Forms, and all Agency out-of-state travel will be approved by the Commission prior to travel. All travel-related receipts will be reviewed by the appropriate supervisor prior to submission of a Travel Reimbursement Claim Form. In addition, any reimbursement attributable to the executive director will be reviewed and approved by the Commission chairman.

Investigative audit has been requested.

Additional concerns were brought to our office related to the PIO's activities. These concerns included:

- A \$200 check dated March 8, 2012 was found in the PIO's unlocked desk in June 2012.
- The May 2012 approved cell phone invoice included a \$327 purchase for an iPhone under a terminated employee's (director of operations) account. This was the second iPhone purchased under the terminated employee's account, the first occurring in February 2012, which was more than ten months after her termination. The PAO indicated one of the two iPhones had been returned.

The executive director has since requested the State Auditor's Office to conduct an investigative audit into the PIO's activities. Results of this investigative audit will be issued in a separate report.

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Items for Future Consideration

During the course of the engagement, one issue came to our attention that merits future consideration as procedures related to it were not performed.

- The legislature should consider if the Agency could be consolidated into another state agency or if their mission could be accomplished without being part of state government.

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Appendix I: Excerpts of State Statutes and DCS Purchase Card Agreement

51 O.S. § 24A.4 states in part, "... every public body and public official has a specific duty to keep and maintain complete records of the receipt and expenditure of any public funds reflecting all financial business transactions...."

67 O.S. § 209 states in part, "All records made or received by or under the authority of or coming into the custody, control or possession of public officials of this state ... shall not be mutilated, destroyed, transferred, removed, altered or otherwise damaged or disposed of ... except as provided by law."

21 O.S. § 21 states, "Where the performance of an act is prohibited by any statute, and no penalty for the violation of such statute is imposed in any statute, the doing of such act is a misdemeanor."

The state purchase card agreement states in part, "The undersigned, as an approved p-card holder, state entity p-card administrator ... or state entity approving official ... fully understand and agree to the following terms and conditions regarding the use ... of the p-card entrusted to me:

4. I shall not use the p-card for any non-state related business, unauthorized purchases, personal purchases...

10. I understand I am personally responsible for obtaining all ... purchase and credit documents (i.e. receipts, receiving documents, disputes, etc.) and submitting them in accordance with state p-card procedures...

13. I understand failure to follow any of the above listed terms and conditions or, if found to have misused the p-card in any manner, may result in (a) revocation of the privilege to use the p-card; (b) disciplinary action; (c) termination of employment; and/or (d) criminal charges, being filed with the appropriate authority."



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