



Town of Hanna
Hanna Public Works Authority
McIntosh County
Special Audit Report
July 1, 2001 – October 31, 2004

JEFF A. McMAHAN, CFE

OKLAHOMA OFFICE
OF THE
STATE AUDITOR & INSPECTOR

Why the audit was performed

In accordance with the
District Attorney's request

74 O.S. 2001, § 212(H)

Audit Summary:

- ✓ The Hanna Public Works Authority (HPWA) is represented by Pratt Law Offices, P.C., which is owned by the sister and brother-in-law of a member of the authority's Board. **Pg. 7**
- ✓ HPWA was unable to provide invoices to support expenditures for the fiscal year 2003-04. Also, expenditures were not supported by an approved claim; there was no documentation that goods or services had been received or performed; some invoices were several months past due; partial payments were made because funds were unavailable; and checks were pre-signed by Trustees. **Pg. 7**
- ✓ A cellular telephone is provided for their field operator/independent contractor and HPWA has not reported it to the IRS. **Pg. 8**
- ✓ On December 10, 2002 the OWRB awarded HPWA an emergency grant. The HPWA submitted invoices for the payment of the project expenditures. The grant funds received for these expenditures were used for another purpose. **Pg. 8 & 9**
- ✓ The OWRB awarded HPWA a \$99,000 REAP grant on March 13, 2001 for the replacement of residential service meters, distribution pumps, and to refurbish the plant building. As of the end of the audit, period \$33,169.31 in grant funds were still available to be used for any work remaining on the approved project. **Pg. 9 & 10**
- ✓ The field operator/independent contractor was paid an additional \$8,320.00 from the REAP grant to replace water meters. This work appears to be part of his regular duties included in his service agreement with HPWA. **Pg. 10**
- ✓ Proceeds received by HPWA from the sales tax agreement between it and the Town of Hanna were spent for purposes other than intended. **Pg. 11**
- ✓ The HPWA records are not maintained in the office of the Clerk of the Town of Hanna as required by HPWA declaration of trust. **Pg 11**

To view a copy of the entire report, please visit our website at: www.sai.state.ok.us.

If you have questions or would like to contact our office, please call (405) 521-3495.

TOWN OF HANNA
HANNA PUBLIC WORKS AUTHORITY
MCINTOSH COUNTY
SPECIAL AUDIT REPORT
JULY 1, 2001 THROUGH OCTOBER 31, 2004



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

June 19, 2005

Honorable Thomas Giulioli
District Attorney – District No. 25
P.O. Box 127
Eufaula, Oklahoma 74432

Transmitted herewith is the Special Audit Report of the Town of Hanna/Hanna Public Works Authority, McIntosh County, Oklahoma. We performed our special audit in accordance with the requirements of 74 O.S.2001, § 212(H).

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 Town/PWA.

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

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

Sincerely,

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

JEFF A. McMAHAN, CFE
State Auditor and Inspector

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index of specific concerns

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

I.	CONCERN: <i>Possible irregularities regarding nepotism</i>	7
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GOVERNING BOARDS

TOWN OF HANNA

Bill Berryhill Mayor
Trina Martin Trustee
Anita Burns Trustee
Rita Breazeale Clerk/Treasurer

HANNA PUBLIC WORKS AUTHORITY

Kathy Garrison Chairperson
David Spears Vice-Chairman
Wendy Augustine Member
Vacant Member
Eva Martin Secretary/Treasurer



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

Mr. Bill Berryhill, Mayor
Town of Hanna
Ms. Kathy Garrison, Chairperson
Hanna Public Works Authority

Dear Mayor and Chairperson:

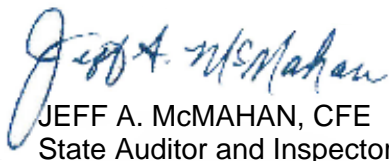
Pursuant to the District Attorney's request and in accordance with the requirements of 74 O.S. 2001, § 212(H), we performed a special audit with respect to the Town of Hanna/Hanna Public Works Authority, McIntosh County, for the period July 1, 2001 through October 31, 2004.

The objectives of our special audit primarily included but were not limited to, the areas noted in the index of specific concerns and are presented in their entirety in italics as they were communicated to us. Our findings and recommendations related to these procedures are presented in the accompanying report.

Because the above procedures do not constitute an audit conducted in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the Town of Hanna/Hanna Public Works Authority for the period July 1, 2001 through October 31, 2004. 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 Town/PWA taken as a whole.

This report is intended to provide information to the District Attorney, Board of Trustees and Administration of the Town/PWA. 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

May 23, 2005

INTRODUCTION

The Town of Hanna, Oklahoma is organized under the statutory town board of trustees form of government, as outlined in **11 O.S. 2001, § 12-101 *et seq.***, which states:

11 O.S. 2001, § 12-101, *et seq.* states:

“The form of government provided by Sections 12-101 through 12-114 of this title shall be known as the statutory town board of trustees form of government. Towns governed under the statutory town board of trustees form shall have all the powers, functions, rights, privileges, franchises and immunities granted, or which may be granted, to towns. Such powers shall be exercised as provided by law applicable to towns under the town board of trustees form, or if the manner is not thus prescribed, then in such manner as the board of trustees may prescribe.”

In addition, **11 O.S. 2001, § 12-102** states in part:

“The town board of trustees shall consist of either three (3) or five (5) trustees who shall be nominated from wards or at large and elected at large.”

The Hanna Public Works Authority is a public trust established under **60 O.S. 2001, § 176 *et seq.*** A private, independent audit firm audits the Town and the Authority.

The State Auditor and Inspector conducted a special audit of the records of the Town of Hanna/Hanna Public Works Authority relating to the District Attorney’s concerns. The results of the special audit are in the following report

CONCERNS, FINDINGS AND RECOMMENDATIONS

I. CONCERN: *Possible irregularities regarding nepotism.*

FINDING: The Hanna Public Works Authority (HPWA) is represented by Pratt Law Offices, P.C., which is owned by the sister and brother-in-law of a new member of the Authority's Board. A letter from the law office dated April 22, 2005, states in part:

"While our office still represented the Town, the Town took over the HPWA, and the Town directed our office to 'clean up the mess' at the HPWA. This was before any replacement members were appointed by the Town to serve to the HPWA, including Kathy Garrison..."

We obtained the Town's Board minutes from the time they took over the HPWA, June 4, 2001, until they appointed three (3) individuals to the HPWA on July 20, 2001. We found nothing in the minutes documenting the hiring of Pratt Law Offices. Also, we have not been provided with any written contract between the law firm and the HPWA.

RECOMMENDATION: We recommend the District Attorney review this finding.

II. CONCERN: *Possible open meeting violations.*

FINDING 1: We obtained a computer-generated report from the Authority's management company, listing checks and deposits for the O & M account for the period July 1, 2003 through October 31, 2004. From the list we prepared a schedule of expenditures by vendor. The Authority does not prepare and approve a claim for the payment of expenditures. We reviewed the supporting documentation, invoices and statements for the checks issued, which is maintained in a file folder by month. The following exceptions were noted.

- Vendor invoices for fiscal year 2003-04 could not be located.
- The Board does not maintain and approve a claim for expenditures. The minutes reflecting approval for payment of expenditures states "pay bills as money becomes available".
- There is no documentation to verify the goods or services had been received or performed.
- Some paid invoices were several months past due.
- An invoice from GC Rentals, for buffer rental was signed by an individual that was not a board member or employee of the Authority and was not an Authority expense.
- Partial payments were made to vendors due to funds being unavailable.
- Checks were pre-signed by Trustees.

RECOMMENDATION: We recommend expenditures be approved by the Board of Trustees at scheduled meetings with the minutes documenting the individual invoices approved for payment. Also, we recommend that the practice of pre-signing checks be discontinued. Further, we recommend no payments be made without documentation to support the work has been done or goods have been received.

FINDING 2: The Board meeting of December 5, 2001 reflects the Authority approved the purchase of a cellular telephone for Rural Water Management, the field operator/independent contractor, with a set monthly rate and minutes. Also, the minutes reflect, if the set amount is exceeded then the Rural Management Company will pay the difference. The Authority's expenditures document that they paid \$69.99 per month for the cellular telephone. During our review period, July 1, 2003 through October 31, 2004, the Authority paid a total of \$1,119.84. Providing a cellular telephone to the independent contractor is a benefit and shall be reported on IRS form 1099.

RECOMMENDATION: We recommend the Board of Trustees report all benefits as required by IRS regulations. Also, we recommend that the Board of Trustees submit corrected 1099's for their independent contractor. Further, we recommend the Authority-owned equipment be used only for business of the Authority.

III. CONCERN: *Possible misappropriation of grant funds.*

FINDING 1: On December 10, 2002, the Oklahoma Water Resources Board (OWRB) approved and awarded a \$25,000.00 emergency grant to the Hanna Public Works Authority (the Authority) of which the Authority had to provide \$3,750.00 in matching funds (15%). The grant was approved based on the proposed project for the following:

- cleaning and treating wells;
- installing new pumps; and
- electrical work on the wells.

The Authority submitted invoices to OWRB for approval and release of the grant funds. The following schedule reflects the grant funds received and expended:

VENDOR	INVOICE AMOUNT	PURPOSE
Central Pump Company	\$ 9,095.00	treat wells, new motor and unit
Ermon Russell Jr.	2,000.00	install 570 ft of 1 1/4 water line
Brown Engineering	3,000.00*	engineering fees
Southwest Chemical Service	150.00	well bore cleaner
Oklahoma City Winpump	2,933.80	motors, control boxes, and parts
Water System Specialist	3,108.62	test well, misc. repairs and service calls
Water System Specialist	723.75	part, labor, and mileage
Water System Specialist	987.00	service call extend piping 3 ft
Bank charges	<u>267.95</u>	fees and checks/deposit tickets printing
Total project cost	\$22,266.12	

*Includes \$500.00 billed on March 8, 2004 for an additional report required by Department of Environmental Quality.

OWRB released a total of \$18,942.69 in grant funds to the Authority for payment of the invoices. Based on the total project expenditures, \$22,266.12, through October 31, 2004, it appears the Authority would be allowed to receive \$18,926.21 in emergency grant funds from OWRB. The Authority has remaining grant funds of \$2,307.31 held by (OWRB). Based on the allowable expenditures, it appears the Authority received an excess of \$16.48 in grant funds. The Authority's emergency grant bank account has a balance of \$641.57.

During our review of expenditures, we noted the grant funds disbursed for the engineering fee were deposited into the Authority's emergency grant bank account on May 7, 2003; however, no payment was made to the engineering firm from this account. On August 17, 2004 and January 27, 2005, approximately one (1) year and three (3) months and one (1) year and ten months, respectively, after grant funds had been received for this expense, checks were issued from the O & M account in the amount of \$1,000.00 each for a total of \$2,000.00 to the engineering firm leaving a balance owed of \$1,000.00. The grant funds received for the engineering fee were used to cover the cost of the Authority's matching amount instead of paying the engineer's invoice.

Based on the information, it appears the Authority used grant funds for a purpose other than intended, which appears to be a violation of **21 O.S. 2002 Supp., 1451**.

RECOMMENDATION: We recommend the District Attorney review this finding to determine, what action, if any, may be necessary.

FINDING 2: On March 13, 2001 the Oklahoma Water Resources Board (OWRB) approved and awarded a \$99,000 Rural Economic Action Plan (REAP) grant to the Hanna Public Works Authority (the Authority). The grant was approved based on the proposed project for replacing:

- approximately one hundred (100) residential service meters;
- two (2) distribution pumps;
- equipment control and electrical system;
- installing a new chlorine metering pump;
- refurbishing the plant building electrical and lighting systems;
- repainting interior and exterior walls;
- installing a new roof; and
- other related appurtenances.

The Authority submitted invoices to OWRB for approval and release of the grant funds.

VENDOR	INVOICE AMOUNT	PURPOSE
Jerry Shaver Construction	\$ 4,255.36	install metal roof and replace door
G & C Electric	785.00	electrical work
G & C Electric	510.00	electrical work
WSM	12,000.00	water plant upgrade
UAS Blue Book	439.13	pump
Central Pump Company	2,672.00	service call and pumping system
WSM	1,237.50	bonds
WSM	22,050.00	water plant upgrade
Ermon Russell Jr.	8,320.00	install meters, cans, and resetters

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Water Products	6,395.00	meters, boxes, and resetters
Water Products	525.00	resetters
Ermon Russell Jr.	4,800.00	paint water plant
Water System Specialist	1,825.00	reconfigure piping at water plant
Water Products	392.00	meter
Pingleton Construction	510.00	install meter
Harland Checks	14.70	checks ordered
Total	\$66,730.69	

OWRB released a total of \$74,630.69 in grant funds to the Authority for payment of the invoices. The total invoices for the project was \$66,730.69, leaving a balance of \$7,900.00 on hand and a balance of available grant funds held by OWRB of \$25,269.31 for a total of \$33,169.31 in grant funds available to be used for the approved project.

The Authority paid two (2) invoices, Water Products, Inc. and Pingleton Construction Company dated August 1, 2002, in the amounts of \$392.00 and \$510.00, respectively, from the O & M account. The grant funds for these invoices still remains in the REAP grant bank account.

Also, in a letter dated May 26, 2002 to Oklahoma Water Resources Board, the Authority requested whether a payment to build a fence to enclose the water plant would be an allowable grant expenditure. On June 17, 2002, Oklahoma Water Resources Board replied stating that the fence would not be an eligible expense within the scope of the grant project. We found no HPWA expenditures for building a fence to enclose the water plant.

RECOMMENDATION: We recommend that the Board of Trustees determine if any expenditure, paid from their O & M account would be allowable under the grant agreement. Also, we recommend that the Board of Trustees determine if the grant project has been completed to assure that the available grant funds have been used to their fullest benefit of the Authority.

FINDING 3: On February 25, 2002, the Board approved a bid submitted by the field operator/independent contractor for the amount of \$8,320.00 to install one hundred fourteen (114) meters, sixty-one (61) meter cans and twenty (20) resetters to be paid from the REAP grant. The field operator/independent contractor had previously entered into a contract for \$1,500.00 per month with HPWA to provide various services that included:

- “6. Change out and test meters in accordance with guidelines established by the District Board.
- 11. Install new service connections as approved by the Board.”

It appears the replacement of old meters with new meters is a part of the operator’s duties and would not be an allowable grant expenditure unless done on force account basis.

RECOMMENDATION: We recommend the OWRB review this finding to determine the appropriate action to be taken. Also, we recommend the District Attorney review this finding to determine what action, if any, may be necessary.

IV. CONCERN: *Possible misappropriations of sales tax agreement funds.*

FINDING: On April 1, 1999, the Town of Hanna (the Town) and Hanna Public Works Authority (HPWA) entered into a "sales tax agreement". The agreement states that the proceeds from the sales tax are to be used to retire two (2) promissory notes with Rural Utilities Service, formerly

Farmers Home Administration, obtained for the construction of a sanitary sewer system. Further, the agreement states that if the Authority is current on the debt as required, and there is no event of default as defined in the documentation securing the notes, then any remaining balance shall be transferred back to the Town. We were unable to locate a copy of the ballot language submitted to a vote of the citizens.

During our review of the bank statements, we noted the Authority had expended the following funds from the sales tax account that were not allowable expenditures under terms of the sales tax agreement:

DATE	PAYMENT TO	AMOUNT	PURPOSE
06/30/03	DEQ	\$ 210.00	retention lagoon fee
10/01/03	Town of Hanna	876.50	reimbursement for repair of sewer line at the Hanna Community Center
10/01/03	HPWA	1,050.00	reimbursement for payment of cement, purchased 09/16-17/02
10/01/03	Bill Scott	<u>793.10</u>	payment of cement purchased 09/16-17/02
Total		\$2,929.60	

Based on the documentation obtained, the Authority expended \$2,929.60 from the sales tax account for purposes other than stated in the sales tax agreement, which appears to be a violation of **21 O.S. 2002 Supp., § 1451**.

RECOMMENDATION: We recommend the District Attorney review this finding to determine what action, if any, may be necessary.

OTHER FINDINGS:

FINDING: The records for the Hanna Public Works Authority (the Authority) are maintained at the office of The Management Company located in Krebs, Oklahoma. In the declaration of trust, one of the duties of the Trustees is keep all records of the Authority in the office of the Clerk of the Town of Hanna.

"VII. POWERS AND DUTIES OF TRUSTEES

(k) All proceedings of the Trustees shall be taken in public meeting only, and the Trustees shall make, or cause to be made, a written record of all their proceedings. All records of the Trust shall be kept in the office of the Clerk of the Beneficiary Municipality and shall be subject to inspection during customary business hours as are public records of the Beneficiary Municipality."

RECOMMENDATION: We recommend the Board of Trustees of the Hanna Public Works Authority comply with the terms set forth in their declaration of trust.

* * * *

Throughout this report there are numerous references to state statutes and legal authorities, which appear to be potentially relevant to issues raised by the patrons and reviewed by this Office. The State Auditor and Inspector has no jurisdiction, authority, purpose or intent by the

issuance of this report to determine the guilt, innocence, culpability or liability, if any, of any person or entity for any act, omission, or transaction reviewed and such determinations are within the exclusive jurisdiction of regulatory law enforcement, and judicial authorities designated by law.

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