

NATCHITOCHEES PARISH FIRE PROTECTION
DISTRICT No.1



INVESTIGATIVE AUDIT
ISSUED SEPTEMBER 19, 2018

**LOUISIANA LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
POST OFFICE BOX 94397
BATON ROUGE, LOUISIANA 70804-9397**

LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

DIRECTOR OF INVESTIGATIVE AUDIT
ROGER W. HARRIS, J.D., CCEP, CFI

Under the provisions of state law, this report is a public document. A copy of this report has been submitted to the Governor, to the Attorney General, and to other public officials as required by state law. A copy of this report is available for public inspection at the Baton Rouge office of the Louisiana Legislative Auditor and at the office of the parish clerk of court.

This document is produced by the Louisiana Legislative Auditor, State of Louisiana, Post Office Box 94397, Baton Rouge, Louisiana 70804-9397 in accordance with Louisiana Revised Statute 24:513. Fourteen copies of this public document were produced at an approximate cost of \$5.60. This material was produced in accordance with the standards for state agencies established pursuant to R.S. 43:31. This report is available on the Legislative Auditor's website at www.la.la.gov. When contacting the office, you may refer to Agency ID No. 9070 or Report ID No. 50180011 for additional information.

In compliance with the Americans With Disabilities Act, if you need special assistance relative to this document, or any documents of the Legislative Auditor, please contact Elizabeth Coxe, Chief Administrative Officer, at 225-339-3800.



LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

September 19, 2018

**MR. RICKY SANDERS, CHAIRMAN
AND MEMBERS OF THE BOARD OF COMMISSIONERS
NATCHITOCHE PARISH FIRE PROTECTION DISTRICT NO. 1**
Cloutierville, Louisiana

We have audited certain transactions of the Natchitoches Parish Fire Protection District No.1. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the validity of complaints we received.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required by *Government Auditing Standards*.

The accompanying report presents our findings and recommendations as well as management's response. This is a public report. Copies of this report have been delivered to the District Attorney for the 10th Judicial District of Louisiana, the Louisiana Board of Ethics, and others as required by law.

Respectfully submitted,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/aa

NPPFD1

TABLE OF CONTENTS

	Page
Executive Summary	2
Background and Methodology.....	3
Findings and Recommendations:	
Prohibited Contractual Agreements	4
Improper Disposal of Surplus Property	6
District May Have Violated State Law While Contracting for Services.....	8
Legal Provisions.....	10
Management’s Response	Appendix A

EXECUTIVE SUMMARY

Prohibited Contractual Agreements

On February 8, 2016, the Natchitoches Parish Fire Protection District No. 1 (District) paid \$44,900 to Prothro Construction, LLC, a legal entity owned and operated by then-Board of Commissioners (Board) Chairman Joseph Prothro's brothers. In addition, from April 2015 to October 2016, then-Chairman Prothro's and District Fire Chief Charlotte Prothro's sons and/or daughters-in-law performed monthly grass cutting services on District property for which the District paid \$8,550. State law prohibits public servants from contracting and/or participating in transactions involving the governmental entity and their immediate family members. By allowing the District to contract with immediate family members and a legal entity owned by immediate family members, Mr. Prothro and Fire Chief Prothro may have violated state law.

Improper Disposal of Surplus Property

District management improperly disposed of vehicles by trading them in at a heavy truck and equipment vendor and/or selling them to Board members. State law provides that political subdivisions may sell surplus movable property at public auction, through an Internet computer auction, or at a private auction if the property to be sold is appraised at less than \$5,000. By improperly disposing of surplus vehicles, District management may have violated state law. Further, Board members who purchased vehicles from the District may have violated the state's ethics laws. In addition, we found that the District failed to maintain an accurate inventory of its vehicles and may be paying insurance on vehicles the District no longer owns.

District May Have Violated State Law While Contracting for Services

On February 8, 2016, the District paid Prothro Construction, LLC \$44,900 for the renovation of Fire Station 1 in Cloutierville, Louisiana. Although this was a public works project as defined by state law, the District allowed work to be performed without a written contract and failed to require the contractor to provide a surety bond. By allowing a contractor to perform services without a written contract or surety bond, District management may have violated state law.

BACKGROUND AND METHODOLOGY

Natchitoches Parish Fire Protection District No. 1 (District) was created in 1982 by the Natchitoches Parish Police Jury. The District's mission is to provide fire protection in the area of Natchitoches Parish which includes Cloutierville, Louisiana. The District is governed by a Board of Commissioners appointed by the Natchitoches Parish Government. The Board consists of five commissioners who serve two-year terms.

On July 14, 2017, Natchitoches Parish President Rick Nowlin wrote to the Louisiana Legislative Auditor (LLA) concerning complaints he received about the District's operations. This audit was initiated to determine the validity of those complaints. In addition, the District has not submitted the annual review of its financial statements to the LLA for the fiscal year ended December 31, 2016; that review was due on June 30, 2017. The procedures performed during this audit included:

- (1) interviewing District employees;
- (2) interviewing other persons as appropriate;
- (3) examining selected District documents and records;
- (4) gathering and examining external parties' documents and records; and
- (5) reviewing applicable state laws and regulations.

FINDINGS AND RECOMMENDATIONS

Prohibited Contractual Agreements

On February 8, 2016, the Natchitoches Parish Fire Protection District No. 1 (District) paid \$44,900 to Prothro Construction, LLC, a legal entity owned and operated by then-Board of Commissioners (Board) Chairman Joseph Prothro's brothers. In addition, from April 2015 to October 2016, then-Chairman Prothro's and District Fire Chief Charlotte Prothro's sons and/or daughters-in-law performed monthly grass cutting services on District property for which the District paid \$8,550. State law prohibits public servants from contracting and/or participating in transactions involving the governmental entity and their immediate family members. By allowing the District to contract with immediate family members and a legal entity owned by immediate family members, Mr. Prothro and Fire Chief Prothro may have violated state law.^{1,2}

Prothro Construction, LLC

Records indicate the District paid Prothro Construction, LLC \$44,900 on February 8, 2016, for renovating Fire Station 1 in Cloutierville, Louisiana. According to Louisiana Secretary of State's records, then-Board Chairman Joseph Prothro's brothers, Charles and Terry Prothro, are officers of Prothro Construction. Charles Prothro confirmed to us that he and Terry Prothro own Prothro Construction, LLC. Board member Charles Roge told us that the renovation was advertised in the Natchitoches Times and that Prothro Construction was the only bidder. Mr. Roge further said that he and the other Board members knew that they shouldn't hire family members to do work for the District, but the work needed to be done so they did it. The District was unable to provide any documentation showing the project was advertised for bid. Moreover, the Natchitoches Times' employee we spoke with told us the District did not advertise any public works projects in the Natchitoches Times during 2015, the year the work was supposedly advertised for bid.

Louisiana Revised Statute (La. R.S.) 42:1113(B)¹ provides that no appointed member of any board or commission, member of his immediate family,^A or legal entity in which he has a substantial economic interest, shall bid on or enter into or be in any way interested in any contract, subcontract, or other transaction which is under the supervision or jurisdiction of the agency of such appointed member. Because Prothro Construction, LLC was owned and operated by Chairman Prothro's brothers, Chairman Prothro may have violated La. R.S. 42:1113(B).

^A **La. R.S. 42:1102(13)** states that, "Immediate family' as the term relates to a public servant means his children, the spouses of his children, his brothers and their spouses, his sisters and their spouses, his parents, his spouse, and the parents of his spouse."

Payments to Chairman Prothro and Fire Chief Charlotte Prothro's Daughters-in-Law

From April 2015 to November 2016, the District paid \$8,550 to Chairman Prothro's and Fire Chief Charlotte Prothro's daughters-in-law for monthly grass cutting services on District property. Using their maiden names, Rachel Broome^B received 11 payments totaling \$4,600, and Paige O'Quinn received 16 payments totaling \$3,950. Fire Chief Prothro and a Board member signed most of these checks.^C The District only provided two invoices (one in Ms. Broome's name and the other in Ms. O'Quinn's name) for the month of October 2016. These pre-numbered invoices were in sequential order (#252796 and #252797) and appear to have been completed in the same handwriting.

Chairman Prothro and Fire Chief Charlotte Prothro are married and have two sons, Travis and Alex Prothro. According to minutes of a District meeting dated September 10, 2014, the Prothros' son Alex was going to cut grass on District property. Fire Chief Prothro told us that both Travis and Alex cut grass for the District, but payment was made to her sons' wives in their maiden names (Ms. Broome and Ms. O'Quinn). Fire Chief Prothro stated that she issued the checks in this fashion at her daughters-in-law's request. Ms. O'Quinn and her husband, Travis Prothro, told us they cut grass at the District together. Ms. O'Quinn stated that she submitted invoices to the District for the work she and her husband performed. Ms. Broome and her husband, Alex Prothro, also said they cut grass for the District together. Alex Prothro told us it was his decision to issue checks in his wife's name and that he may have done this because it might look bad if his mother issued the checks payable to him.

La. R.S. 42:1113(B) provides that no appointed member of any board or commission, member of his immediate family, or legal entity in which he has a substantial economic interest, shall bid on or enter into or be in any way interested in any contract, subcontract, or other transaction which is under the supervision or jurisdiction of the agency of such appointed member. Because the District issued payments to Chairman Prothro's immediate family members, Chairman Prothro may have violated La. R.S. 42:1113(B). In addition, La. R.S. 42:1112(B) prohibits public servants from participating in transactions involving the governmental entity, in which an immediate family member has a substantial economic interest. By signing District checks payable her immediate family members, Fire Chief Prothro may have violated La. R.S. 42:1112(B).

Recommendations

District management should:

- (1) Implement written policies and procedures to ensure compliance with the Code of Governmental Ethics (La. R.S. 42:1101, *et seq.*);

^B Ten of these payments were issued to Rachel Broome (maiden name) and one payment was issued to Rachel Prothro.

^C Two checks were signed by Chief Prothro without the signature of a Board member.

- (2) Ensure that all employees and Board members are properly trained regarding state ethics and other laws affecting the District's operations;
- (3) Prohibit the District from contracting with Board members and the agency head's immediate family members;
- (4) Adopt detailed policies and procedures requiring all employees to complete the annual ethics training in accordance with La. R.S. 42:1170; and
- (5) Require detailed invoices and documentation of the business purpose for all expenditures.

Improper Disposal of Surplus Property

District management improperly disposed of vehicles by trading them in at a heavy truck and equipment vendor and/or selling them to Board members. State law provides that political subdivisions may sell surplus movable property at public auction, through an Internet computer auction, or at a private auction if the property to be sold is appraised at less than \$5,000. By improperly disposing of surplus vehicles, District management may have violated state law.³ Further, Board members who purchased vehicles from the District may have violated the state's ethics laws.^{4,5} In addition, we found that the District failed to maintain an accurate inventory of its vehicles and may be paying insurance on vehicles the District no longer owns.

During our audit, we found that the District has no written policies and/or procedures regarding the disposal of surplus movable property. According to Board member Charles Roge, the District has disposed of at least one surplus vehicle by trading it in to David Cook Trucks & Equipment, a heavy truck and equipment vendor in Florien, Louisiana. David Cook, owner of David Cook Trucks & Equipment, confirmed that the District has purchased equipment from his business and, in some cases, traded in old equipment for a credit toward the purchase of new equipment. Because the District failed to provide any documentation to support these transactions, we could not determine if the District received equivalent value for its surplus equipment.

Louisiana Attorney General Opinion 12-0150 states that, "...political subdivisions of the state may sell their surplus movable property at a public auction conducted pursuant to La. Rev. Stat. 49:125, through an Internet computer auction pursuant to La. Rev. Stat. 33:4711.1, or at a [private] sale under La. Rev. Stat. 33:4712(F) if the property to be sold is appraised at less than \$5,000." Additionally, Louisiana State Constitution Article VII, Sect. 14(E) also allows for a political subdivision to dispose of surplus property by donating or selling it to another political subdivision or law enforcement entity. Based on Attorney General opinion and state law, it appears the District does not have the authority to dispose of surplus vehicles by trading them for credit towards the purchase of another one.

In addition to trading in vehicles, we were informed that the District disposed of some vehicles by advertising them for bid in the local newspaper. Based on Attorney General opinion and state law, it appears the District does not have the authority to dispose of surplus vehicles by simply advertising them in the local newspaper. According to La. R.S. 33:4712(F), if the property to be sold is appraised at less than \$5,000, a resolution giving the reasons for the action on the part of the governing authority and fixing the minimum price and terms of the sale shall be adopted. Further, notice of the resolution and proposed sale shall be published once at least 15 days prior to the sale. Records indicate that District Board members bid on and purchased at least two vehicles for less than \$5,000; however, the District could not provide resolutions giving the reasons for the actions and fixing the minimum prices and terms of the sales. For example, the Board sold a Ford F-250 and a GMC pumper truck by advertising in the newspaper for “close bids” on August 8, 2012. Board members Charles Roge and Michael Sanders bid \$526 and \$400, respectively, for the Ford F-250, and Board member William Sanders bid \$150 for the GMC pumper. Mr. Roge confirmed that he purchased the Ford F-250 and William Sanders confirmed that he purchased the GMC pumper.

Fire Chief Prothro told us that Board members and volunteer firefighters purchased District equipment on several occasions; she believes District volunteers deserve deals on equipment because they are not compensated for their work. Although La. R.S. 42:1123(35) allows unpaid, volunteer firemen who are not the agency head to do so, that exception does not appear to apply to Board members. In such cases, La. R.S. 42:1113 prohibits board members from entering into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the board member’s agency. La. R.S. 42:1112 further prohibits board members from participating in a transaction in which the board member has a personal substantial economic interest of which he may be aware involving the governmental entity. By bidding on and/or purchasing surplus vehicles from the District, Mr. Roge, Michael Sanders, and William Sanders may have violated the state’s ethics laws.^{4,5}

District Failed to Track Movable Property

During our audit, we found that the District failed to maintain an accurate inventory of movable property and may be paying insurance for vehicles the District no longer owns. Board Chairman Ricky Sanders told us he asked the District’s mechanic to compile a list of District vehicles. The District’s mechanic told us he compiled the list by comparing vehicles on the District’s insurance policy to vehicles found on the District’s properties. In doing so, he found the District was paying insurance for nine vehicles that he could not locate.

For example, the District’s mechanic could not locate two pumper trucks the District had insured. Because the District did not maintain an accurate inventory of vehicles, and did not document sales and trade-ins, we could not determine if one of these pumper trucks was sold to William Sanders in 2012, as discussed above. As a result, it appears that the District has paid insurance for vehicles that were sold, traded in at a dealership or missing.

Recommendations

District management should:

- (1) Implement written policies and procedures to ensure that all surplus property is disposed of in accordance with state law;
- (2) Consult with legal counsel and the Louisiana Board of Ethics to ensure compliance with state ethics laws regarding transactions by public servants under the supervision or jurisdiction of the agency of such public servants;
- (3) Adopt detailed policies and procedures requiring all employees to complete the annual ethics training in accordance with La. R.S. 42:1170,
- (4) Implement policies and procedures to ensure that all movable property is properly accounted for;
- (5) Maintain an accurate listing of all movable property and document all transactions affecting inventory, such as sales and purchases, on a consistent and timely basis; and
- (6) Conduct an annual inventory of all movable property.

District May Have Violated State Law While Contracting for Services

On February 8, 2016, the District paid Prothro Construction, LLC \$44,900 for the renovation of Fire Station 1 in Cloutierville, Louisiana. Although this was a public works project as defined by state law, the District allowed work to be performed without a written contract and failed to require the contractor to provide a surety bond. By allowing a contractor to perform services without a written contract or surety bond, District management may have violated state law.^{6,7}

La. R.S. 38:2241(A) requires written contracts to be used for all public works projects that exceed \$5,000 (except in instances where an emergency is deemed to exist) for the construction, alteration, or repair of public works. La. R.S. 38:2241(A) further requires that contractors on public works projects in excess of \$25,000 provide a bond with good, solvent, and sufficient surety in a sum of not less than fifty percent of the contract price not later than 30 days after the work has begun. Both the bond and contract are to be filed with the Clerk of Court.

Records indicate that the District paid Prothro Construction, LLC \$44,900 to renovate Fire Station 1 located in Cloutierville, Louisiana on February 8, 2016. Based on the amount paid to Prothro Construction, LLC for renovation of Fire Station 1, the District had a legal obligation to contract with Prothro Construction, LLC in writing and require Prothro Construction, LLC to provide a surety bond in a sum not less than fifty percent of the contract price. The District could not provide a written description of the work performed, a written contract, nor evidence

that Prothro Construction, LLC provided a surety bond. By allowing a contractor to perform services without a written contract or surety bond, District management may have violated state law.^{6,7}

Recommendations

We recommend that District management implement written policies and procedures to ensure that all laws pertaining to contracts and public bids (primarily, La. R.S. 38:2211, *et seq.*) are followed. We further recommend that District management ensure that vendors and professional service providers have valid, written contracts prior to providing services.

LEGAL PROVISIONS

¹ **Louisiana Revised Statute (La. R.S.) 42:1113(B)** states, “Other than a legislator, no appointed member of any board or commission, member of his immediate family, or legal entity in which he has a substantial economic interest shall bid on or enter into or be in any way interested in any contract, subcontract, or other transaction which is under the supervision or jurisdiction of the agency of such appointed member.”

² **La. R.S. 42:1112(B)** states, “No public servant, except as provided in R.S. 42:1120, shall participate in a transaction involving the governmental entity in which, to his actual knowledge, any of the following persons has a substantial economic interest: (1) Any member of his immediate family. (2) Any person in which he has a substantial economic interest of which he may reasonably be expected to know. (3) Any person of which he is an officer, director, trustee, partner, or employee. (4) Any person with whom he is negotiating or has an arrangement concerning prospective employment. (5) Any person who is a party to an existing contract with such public servant, or with any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, or who owes anything of economic value to such public servant, or to any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, and who by reason thereof is in a position to affect directly the economic interests of such public servant.”

³ **La. R.S. 33:4711.1(A)** states, “A political subdivision may, through Internet computer auction: (1) Sell surplus property through the use of electronic technology including Internet websites that facilitate such sales. (2) Pay any costs associated with the sale from the proceeds of such sale. (3) Sell surplus property through any form of electronic technology, including Internet websites created expressly for that purpose whether privately or publicly owned.”

La. R.S. 33:4712(F) states, “Notwithstanding any provisions of this Section to the contrary, a municipality may sell any movable property having an appraised value of five thousand dollars or less at private sale provided that: (1) A resolution giving the reasons for the action on the part of the governing authority and fixing the minimum price and terms of the sale shall be adopted. (2) Notice of the resolution and proposed sale shall be published once at least fifteen days prior to the date of the sale in the official journal of the municipality. (3) The sale shall be made to the person with the highest bid.”

La. R.S. 49:125 provides, “A. Notwithstanding any other provision of law to the contrary, the state or any board, commission, department or agency of the state or any political subdivision of the state is hereby authorized to sell surplus movable property at public auction, in addition to the other methods provided by law for such sales. The unit of government so desiring to sell surplus movable property at public auction is authorized to employ qualified licensed auctioneers to handle said sale. B. No sale at public auction shall be at a price which is less than is required by law, and all such sales shall be advertised in the manner provided by law. C. The unit of government so desiring to sell surplus movable property at public auction shall reserve the right to reject any and all bids and remove said item of movable property from sale.”

⁴ **La. R.S. 42:1113(A)(1)(a)** provides that, “No public servant, excluding any legislator and any appointed member of any board or commission and any member of a governing authority of a parish with a population of ten thousand or less, or member of such a public servant's immediate family, or legal entity in which he has a controlling interest shall bid on or enter into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the agency of such public servant.”

La. R.S. 42:1113(B) provides that, “Other than a legislator, no appointed member of any board or commission, member of his immediate family, or legal entity in which he has a substantial economic interest shall bid on or enter into or be in any way interested in any contract, subcontract, or other transaction which is under the supervision or jurisdiction of the agency of such appointed member.”

⁵ **La. R.S. 42:1112(A)** provides that, “No public servant, except as provided in R.S. 42:1120, shall participate in a transaction in which he has a personal substantial economic interest of which he may be reasonably expected to know involving the governmental entity.”

La. R.S. 42:1112 (D) provides that, “No appointed member of any board or commission, except as otherwise provided in R.S. 42:1120.1 or 1120.4, shall participate or be interested in any transaction involving the agency when a violation of this Part would result.”

⁶ **La R.S. 38:2241(A)(1)** states that, “Whenever a public entity enters into a contract in excess of five thousand dollars for the construction, alteration, or repair of any public works, the official representative of the public entity shall reduce the contract to writing and have it signed by the parties. When an emergency as provided in R.S. 38:2212(D) is deemed to exist for the construction, alteration, or repair of any public works and the contract for such emergency work is less than fifty thousand dollars, there shall be no requirement to reduce the contract to writing.”

⁷ **La R.S. 38:2241(A)(2)** states that, “For each contract in excess of twenty-five thousand dollars per project, the public entity shall require of the contractor a bond with good, solvent, and sufficient surety in a sum of not less than fifty percent of the contract price for the payment by the contractor or subcontractor to claimants as defined in R.S. 38:2242. The bond furnished shall be a statutory bond and no modification, omissions, additions in or to the terms of the contract, in the plans or specifications, or in the manner and mode of payment shall in any manner diminish, enlarge, or otherwise modify the obligations of the bond. The bond shall be executed by the contractor with surety or sureties approved by the public entity and shall be recorded with the contract in the office of the recorder of mortgages in the parish where the work is to be done not later than thirty days after the work has begun.”

APPENDIX A

Management's Response

Dear Mr. Purpera

I am answering the auditors report on Fire District 1. Since the auditors made us aware we have made major changes. We have a new board, we will also have a new chief we are putting new things in place so this does not happen again. The way the district is ran now is the way it is supposed to be, my board is all going through the Ethics Class and we are putting in place all of the recommendations that was brought to us by the auditors. Let me say thanks to the Ia. Auditors for bringing this to our attention

Sincerely,
Rick Sanden
Chairman of the Board
Fire District 1