



LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

February 15, 2017

The Honorable Purvis J. Morrison, Mayor
and Members of the Board of Aldermen
City of Scott
125 Lions Club Road
Scott, Louisiana 70583

Dear Mayor Morrison and Aldermen:

As you are aware, my Investigative Audit staff visited the City of Scott (City) to assess the validity of certain complaints. This letter briefly summarizes the results of our work. We stress the importance of addressing these issues and encourage you to consider our recommendations as you work to resolve the following:

Improper Disposal of Surplus Property

On November 3, 2016, we received a complaint that the City had improperly disposed of a surplus vehicle used by the police department. During our review, we found that the City has no written policies and procedures regarding the disposal of surplus movable property. For several vehicles the City has deemed to be surplus property, the City disposed of these vehicles by trading them in at a car dealership and used the value received to offset the cost of new vehicles. According to City Manager Brenda Dugas, the City has traded in surplus vehicles for several years because there are very few public auctions. Ms. Dugas stated that surplus vehicles are approved by the Mayor and Board of Aldermen, and the mayor signs the title (to transfer ownership) for each surplus vehicle that is traded in.

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 public 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 City does not have the authority to dispose of surplus vehicles by trading them into a dealership. By improperly disposing of surplus vehicles, City management may have violated state law.

Ethics – Prohibited Transaction

Louisiana Revised Statute (La. R.S.) 42:1113(A)(1)(a) provides, in part, that, "[n]o public servant ... or legal entity in which he has a controlling interest shall bid on or enter into any contract,

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subcontract, or other transaction that is under the supervision or jurisdiction of the agency of such public servant.” La. R.S. 42:1112(A) further provides, in part, that, “[n]o public servant shall participate in a transaction in which he has a personal substantial economic interest of which he may be aware involving the governmental entity.” Records indicate that on July 1, 2013, the City traded-in the police department’s 2009 Ford F-150 at a car dealership for \$10,000 toward the purchase of a new vehicle. City Police Chief Chad Leger then personally purchased the 2009 Ford F-150 from the dealership on the same day. Chief Leger stated that he purchased the truck for \$10,250 and acknowledged that he was aware he was not allowed to purchase this vehicle from the City or at public auction. By purchasing a vehicle previously owned by the City, Chief Leger may have violated the state’s ethics laws. However, whether or not a violation of the state’s ethics laws occurred is limited to the particular set of circumstances. We suggest that the Louisiana Board of Ethics review this information and take appropriate action. Additionally, Chief Leger may have also violated Section 2-78 of the City’s Code of Ordinances, which states, in part, that, “no public servant, defined in this article as any elected official or employee of the city, shall purchase or attempt to otherwise acquire any property of the city sold, or to be sold, at a private or public sale, by private bidding or otherwise.”

Recommendations

We recommend that the City implement written policies and procedures to ensure that all surplus property is disposed of in accordance with state law. We further recommend that the City consult with its legal counsel and the Louisiana Board of Ethics to ensure compliance with state ethics laws and City ordinances regarding transactions by public servants under the supervision or jurisdiction of the agency of such public servants. The City should also adopt detailed policies and procedures requiring all employees to complete the annual ethics training in accordance with La. R.S. 42:1170. This correspondence represents our findings and recommendations, as well as management’s response and is intended primarily for the information and use of management of the City. I trust this information will assist you in the efficient and effective operations of the City. If you have any questions, please contact Greg Clapinski or Jonathan Hodson at 225-339-3800.

Sincerely,



Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/aa

APPENDIX A

Management's Response

MAYOR
PURVIS J. MORRISON
CITY MANAGER
BRENDA T. DUGAS
CITY CLERK
DONNA B. JUMONVILLE



COUNCIL
JAN-SCOTT RICHARD
At Large - Mayor Pro-Tem
BILL YOUNG
TERRY MONTOUCET
DANNY T. HOLLIER
MARK MOREAU

January 25, 2017

Honorable Daryl G. Purpera, CPA, CFE
Louisiana Legislative Auditor
Post Office Box 94397
Baton Rouge, LA 70804-9397

**VIA FACSIMILE
and
CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

In Re: City of Scott; investigative audit letter report

Dear Mr. Purpera:

We acknowledge receipt of the investigative audit letter report provided to us by Mr. Roger W. Harris with your office. Please consider this the response of the City of Scott (the "City") to same.

The audit letter questions the City's occasional practice of trading in vehicles when purchasing a replacement vehicle. The audit letter appears to imply that trading in vehicles is the usual method for the City to dispose of its surplus vehicles. This is incorrect. For the preceding five (5) year period, we have been able to identify only six (6) vehicles which were traded in. During that same time period, the City sold ten (10) vehicles to other law enforcement agencies pursuant to La. R.S. 33:1322, et seq., the "Local Services Law", and four (4) vehicles at public auction pursuant to La. R.S. 33:4712, and also donated one (1) vehicle to the Council on Aging as allowed by Article 7, Section 14 of the Louisiana Constitution. (Samples of those transactions were provided to your office.) When on occasion the City trades in a vehicle, the procedure is generally as follows: The request to trade in a vehicle usually comes before the City Council either at a budget meeting where funds are appropriated for the purchase of a vehicle, less the amount to be received for the trade-in, or comes before the City Council for purposes of amending the City's budget to purchase the replacement vehicle. In both cases, the trade-in value is usually approved by the City Council, and, upon the recommendation of our auditor, the transaction is confirmed by ordinance to either adopt or amend the budget. Of the different ways to transfer surplus movable property, this procedure is most akin to La. R.S. 33:4712, which provides that a municipality may sell to private persons, at public or private sale, at a minimum price as determined by the municipality, any property which is not needed for public purposes, and which also requires either the adoption of an ordinance or resolution. We respectfully submit that this practice whereby the City Council approves the trade-in value of the vehicle, which is adopted by ordinance, appears to constitute substantial compliance with La. R.S. 33:4712. Further, the City's auditor has never raised any concerns

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about the City's occasional trading in of a vehicle. We also note that this practice would appear to benefit the City's taxpayers, as the City is obtaining a fair value for the traded in vehicle as determined by the City Council, without the additional costs associated with putting the vehicle up for sale at public auction.

We have reviewed the Attorney General's opinion cited in the investigative audit letter. We note that the opinion addresses whether surplus computers can be donated to a private company for recycling and refurbishment, and does not address whether a municipality may trade in a vehicle for fair value utilizing the procedure described above. We are also aware that an Attorney General's opinion is only that, an opinion.

Notwithstanding the above, considering that the City only trades in vehicles on an infrequent basis, and usually disposes of its surplus motor vehicles by other legal means, as set forth above, and, further, considering the recommendations of your Office, this is to advise that the City will discontinue trading in vehicles unless and until the law clearly allows same. We intend to suggest to our area legislators that they consider legislation which would clarify and specifically make legal the trading in of vehicles, particularly considering the possible benefits to taxpayers. As regards that the City has no written procedure for disposing of surplus movable property, we are unaware of any legal requirement for same, but certainly would have no objection to developing such a policy. It would be appreciated if your office could provide any samples it might have.

As regards the audit letter where it questions the Police Chief's purchase of a traded-in vehicle, it is our understanding that this matter will be referred to the Louisiana Board of Ethics, and that we are not required to specifically respond to same. However, we note that the Police Chief did not purchase the vehicle from the City, but instead from a private entity. As regards your Office's recommendation that the City adopt a policy requiring all of its employees to complete the annual ethics training in accordance with La. R.S. 42:1170; although the statute already requires such training and does not mandate a written policy, and our City's employees are aware of their responsibility regarding the training, we intend to follow your recommendation and adopt a policy whereby City employees are made aware of and reminded of their responsibility

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for the training, and where compliance is verified on an annual basis. We can advise that Chief Chad Leger did complete the required ethics training for the year 2016. We thank your office for bringing our attention to and allowing us to address this important issue.

Please know that we appreciate the role and duty of your office to enforce compliance by public entities with Louisiana's laws and best practices. We appreciate the opportunity this has afforded us to assure that we are in compliance. We trust that this response adequately addresses the concerns contained in the investigative audit letter report. Thank you for your attention.

Sincerely yours,

Purvis J. Morrison

PJM/ljt

xc: Mr. Roger W. Harris, J.D., CCEP
Honorable Purvis J. Morrison
Chief Chad Leger

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