

IBERVILLE PARISH ASSESSOR



INVESTIGATIVE AUDIT  
NOVEMBER 4, 2015

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LOUISIANA LEGISLATIVE AUDITOR  
DARYL G. PURPERA, CPA, CFE

November 4, 2015

**THE HONORABLE JOHN R. SEXTON, ASSESSOR**  
**IBERVILLE PARISH**  
Plaquemine, Louisiana

We have audited certain transactions of the Iberville Parish Assessor. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the validity of allegations 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 18<sup>th</sup> Judicial District of Louisiana, Attorney General of Louisiana, Internal Revenue Service, Louisiana Department of Revenue, and others as required by law.

Respectfully submitted,

Daryl G. Purpera, CPA, CFE  
Legislative Auditor

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IBERVILLEASSESSOR2015



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## EXECUTIVE SUMMARY

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### **Public Bid Law Violation**

Iberville Parish Assessor John Sexton may have violated state law by purchasing two Ford F-250 trucks without advertising and letting to the lowest responsible bidder.

### **Assessor's Office Did Not Report Personal Use of Public Vehicles as Income**

The Assessor's Office did not report the personal use of Assessor's Office vehicles by Mr. Sexton and Deputy Assessor Clint Seneca from 2009 to 2014 as required by Internal Revenue Service (IRS) Publication 15-B. Additionally, Mr. Sexton and Mr. Seneca did not keep records of their business or personal use of the Assessor's Office vehicles. Finally, since Mr. Sexton paid himself the maximum amount allowed by state law, any personal use of an Assessor's vehicle that was not reimbursed by Mr. Sexton would be considered income and would have exceeded his maximum salary.

### **Assessor Vehicles Not Properly Marked**

The 2012 and 2015 Ford F-250 pickup trucks owned by the Assessor's Office and used by Mr. Sexton and Mr. Seneca were not properly marked, nor were they equipped with public license plates as required by state law. By not properly marking and equipping the Assessor's Office vehicles with public license plates in accordance with state law, Mr. Sexton may be subject to a fine of \$25 to \$50 per day for the period since the vehicles were put in service, as prescribed by state law.



## BACKGROUND AND METHODOLOGY

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Assessors are elected by parish voters for four-year terms. Assessors determine the value of all real and movable property subject to ad valorem taxation in their respective parish. Each assessor is authorized to appoint as many deputies as may be necessary for the efficient operation of the office and provide assistance to the taxpayers. The deputies are authorized to perform all functions of the office, but the assessor is financially responsible for the actions of the deputies.

This audit was initiated after receiving allegations regarding the improper purchase of the vehicles and personal use of those vehicles by the Iberville Parish Assessor. The procedures performed during this audit included:

- (1) interviewing employees of the assessor;
- (2) interviewing other persons as appropriate;
- (3) examining selected documents and records; and
- (4) reviewing applicable state laws and regulations.



## FINDINGS AND RECOMMENDATIONS

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### Public Bid Law Violation

**Iberville Parish Assessor John Sexton may have violated state law<sup>1</sup> by purchasing two Ford F-250 trucks without advertising and letting to the lowest responsible bidder.**

#### *Lease-purchase of 2012 F-250*

In February 2012, Iberville Parish Assessor John “Randy” Sexton signed a lease-purchase agreement for a 2012 Ford F-250 Lariat 4x4 ¾ ton pickup truck (2012 F-250). The lease-purchase agreement required a \$1,000 down payment and 60 monthly payments of \$984.66, totaling \$60,079.60. According to Mr. Sexton and Deputy Assessor Clint Seneca, the Assessor’s office did not advertise for bids or get quotes before Mr. Sexton signed the lease-purchase agreement on behalf of the Assessor’s office for the 2012 F-250.

The lease-purchase also calls for the lessor to release the lien on the vehicle after all payments are made. According to Mr. Sexton, he drove the 2012 F-250 truck for business and personal use from February 2012 until July 2014, when the Assessor’s office purchased a 2015 F-250 Platinum 4x4 ¾ ton pickup truck for Mr. Sexton to drive. Deputy Assessor Clint Seneca began driving the 2012 Ford F-250 when Mr. Sexton started driving the 2015 Ford F-250.

State law<sup>1</sup> requires that purchases greater than \$30,000 be publicly advertised and let to the lowest responsible bidder. Although the Assessor’s Office did not purchase the 2012 F-250, the lease-purchase agreement calls for the lessor to release all liens on the vehicle when all payments are made, which will provide ownership to the Assessor’s office. Attorney General Opinion No. 00-433A states that “no lease—regardless of its characterization—would be exempt from the bidding requirement if it is over the bidding threshold and contains an opportunity to obtain title under the terms of the document.” It appears Mr. Sexton violated state law<sup>1</sup> because he entered into an agreement that exceeded the bidding threshold of \$30,000, contained the opportunity to obtain the title to the 2012 F-250, and was not advertised and let to the lowest responsible bidder. Mr. Sexton stated it was an oversight on his part that he did not obtain bids for the 2012 F-250.

#### *Purchase of 2015 F-250*

In July 2014, Mr. Sexton authorized the purchase of a 2015 Ford F-250 Platinum 4x4 ¾ ton pickup truck (2015 F-250) for \$59,120 by the Assessor’s Office. According to Mr. Sexton and Mr. Seneca, the Assessor’s Office did not advertise the purchase of the 2015 F-250 for bids, but did obtain telephone quotes before purchasing. However, they did not keep a copy of the quotes in the Assessor’s records, which may violate state law.<sup>2</sup> Mr. Sexton stated that the 2015 F-250 truck was purchased for him to use for personal and business use, and that the 2012 F-250 was provided to Mr. Seneca for his business use after the Assessor’s Office purchased the 2015 F-250.

As explained in the previous section, state law<sup>1</sup> requires that purchases greater than \$30,000 be publically-advertised and let to the lowest responsible bidder. Mr. Sexton said that it was an oversight on his part that he did not obtain bids before purchasing this vehicle. It appears Mr. Sexton violated state law<sup>1</sup> because the Assessor's Office failed to advertise the purchase of the 2015 F-250 for bids and let to the lowest responsible bidder.

Mr. Sexton stated that he purchased both Ford F-250 trucks because it was a matter of personal preference, and that he always personally drove a ¾ ton truck. Mr. Sexton and Mr. Seneca stated that they did not need the capacity of the ¾ton truck for the work they do for the Assessor's Office, but a four wheel drive truck was necessary since Iberville Parish is a rural parish.

The Assessor's response to the report states that the Legislative Auditor has "performed annual audits during each of the years Mr. Sexton has been the elected assessor. Not a single instance in those years, but more particularly in the years 2012, 2013, 2014, has your office made a single finding as to relate to said vehicles which is the subject of the allegations, despite all records being available and examined by your office during said audits." This statement is incorrect since the Assessor's office selected and contracted with Baxley and Associates, LLC to perform its annual audit for the years 2012 through 2014.

#### **Assessor's Office Did Not Report Personal Use of Public Vehicles as Income**

**The Assessor's Office did not report the personal use of Assessor's Office vehicles by Mr. Sexton and Mr. Seneca from 2009 to 2014 as required by Internal Revenue Service (IRS) Publication 15-B.<sup>3</sup> Additionally, Mr. Sexton and Mr. Seneca did not keep records of their business or personal use of the Assessor's Office vehicles. Finally, since Mr. Sexton paid himself the maximum amount allowed by state law,<sup>4,5,6</sup> any personal use of an Assessor's vehicle that was not reimbursed by Mr. Sexton would be considered income and would have exceeded his maximum salary.<sup>4,5,6</sup>**

#### *Personal Use of Assessor Vehicles*

According to Mr. Sexton and Mr. Seneca, they both used an Assessor's Office vehicle for business use and commuting to and from work.<sup>A</sup> Mr. Sexton stated he used the vehicles for his personal use as well. However, they did not keep any records that reflect their business or personal use of the vehicles. Mr. Sexton began using an Assessor's Office vehicle in May 2009.<sup>B</sup> Mr. Seneca started using an Assessor's Office vehicle in August 2014.

Internal Revenue Service Publication 15-B, Employer's Tax Guide to Fringe Benefits, states "Any fringe benefit you (employer) provide is taxable and must be included in the recipient's pay unless the law specifically excludes it." It further states that "You (employer) must report the actual value (of fringe benefits) on Forms 941 (or form 944) and W-2."

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<sup>A</sup> Commuting from home to work is considered personal use by IRS Publication 15-B.

<sup>B</sup> From May 2009 to February 2012, Mr. Sexton drove a 2009 Chevrolet Suburban. From February 2012 to July 2014, Mr. Sexton drove a 2012 Ford F250 Lariat. From August 2014 to the present, Mr. Sexton drives a 2015 Ford F250 Platinum.

According to Mr. Sexton, there was no income added to form W-2 (Annual Wage and Tax Statement) for Mr. Seneca for his personal use of an Assessor's Office vehicle.

Mr. Sexton stated that he reported his personal use of the Assessor's Office vehicle on his personal taxes by using the IRS's commuter rule (\$3 per day) based on advice from his income tax advisor. According to Assessor's Office records, \$750 was added to Mr. Sexton's W-2 in 2014, but no income was added in other years for his personal use of Assessor's Office vehicles. IRS rules<sup>7</sup> state that the commuter rule allows personal use of the employer's vehicle for commuting purposes only and sets the imputed income at \$3 per day. However, IRS rules<sup>8</sup> prohibit the use of the commuter rule for elected officials.

The Assessor's response to the report suggests that Mr. Sexton's use of the F250 truck is exempt from taxation because the F250 truck is not an automobile because it has a gross vehicle weight greater than 6,000 pounds as defined IRS Publication 946, "How To Depreciate Property." However, IRS Publication 15-B, "Employer's Tax Guide To Fringe Benefits," which determines the amount to be imputed as income in the fringe benefit calculation, defines an automobile as a "four-wheeled vehicle (such as a car, pickup truck, or van) manufactured primarily for use on public streets, roads, and highways" and does not exclude from taxation vehicles with a gross vehicle weight in excess of 6,000 pounds.

In fact, IRS Publication 15-B includes pickup trucks with a loaded gross vehicle weight of 14,000 pounds or less, unless the pickup truck is clearly marked with permanently affixed decals, special painting, or other advertising associated with a trade, business, or function and (1) equipped with a hydraulic lift gate, permanent tanks or drums, permanent side boards or panels that materially raise the level of the sides of the truck bed, or (2) used primarily to transport a particular type of load. The F250 truck driven by Mr. Sexton did not meet any of these criteria and, therefore, does not qualify for the exception and Mr. Sexton's personal use of Assessor's Office vehicles must be reported as income.

Mr. Sexton further stated that Mr. Seneca is exempt from reporting income for commuting to work in an Assessor's Office vehicle because he is on 24-hour call. He also said Mr. Seneca does not use the Assessor's Office vehicle for personal reasons other than commuting since he has a personal vehicle; however, there is no written policy to address this. Mr. Sexton explained that they sometimes assist in the issuance of property bonds in the middle of the night or on weekends so individuals can bond out of jail; however, they do not assist with the issuance of property bonds for everyone late at night or on the weekends.

The Assessor's response to the report states that "...Mr. Seneca is not required to report any use of the Assessor's Office vehicle on his personal taxes as he has NO PERSONAL USE of said vehicle." The response also states that "Mr. Seneca is 'on call – 24 hours per day' and as such is thereby authorized to garage the Assessor's Office vehicle at his home."

IRS Publication 15-B defines transportation benefits, such as commuting to and from work, as personal use and a taxable fringe benefit. Further, IRS Publication 15-B does not provide for an exception for employees on 24-hour call.

There are exceptions in IRS Publication 15-B<sup>9</sup> for qualified nonpersonal use vehicles when the vehicle is not likely to be used by the employee because of its design, such as clearly marked public safety vehicles, ambulances, delivery trucks, buses, and specialty equipment. It appears the Assessor's Office should have reported income on Mr. Seneca's W-2 since his personal use of the 2012 Ford F-250 does not meet any of the exceptions.

#### *Estimate of Reportable Income*

Since the Assessor's Office did not accurately report income for Mr. Sexton and Mr. Seneca's personal use of Assessor's Office vehicles, we estimated the amount of reportable income based on available records and our understanding of IRS rules. Our estimate for Mr. Sexton was \$75,668 (explained in the following chart) and Mr. Seneca was \$5,104.<sup>c</sup>

<b>Estimated Income for Mr. Sexton's Personal Use of an Assessor's Office Vehicle</b>			
<b>Year</b>	<b>Vehicle</b>	<b>Length of Time Driven</b>	<b>Imputed Income per IRS</b>
2009	2009 Chevrolet Suburban	8 Months	\$8,167
2010	2009 Chevrolet Suburban	12 Months	12,250
2011	2009 Chevrolet Suburban	12 Months	12,250
2012	2009 Chevrolet Suburban	1 Month	1,021
	2012 Ford F250 Lariat	11 Months	13,063
2013	2012 Ford F250 Lariat	12 Months	14,250
2014	2012 Ford F250 Lariat	7 Months	8,313
	2015 Ford F250 Platinum	5 Months	6,354
<b>Total</b>			<b>\$75,668</b>

IRS Publication 15-B<sup>3</sup> provides that fringe benefits provided to employees must be valued at fair market value and reported on each employee's W-2. There are four methods listed in IRS Publication 15-B to determine fringe benefit valuation of an employer-provided vehicle: (1) Cents-Per-Mile Rule, (2) Commuting Rule, (3) Lease Value Rule, and (4) Unsafe Conditions Commuting Rule. We used the Lease Value Rule to value the personal use of Assessor's Office vehicles for both Mr. Sexton and Mr. Seneca because they did not qualify to use the other methods as follows:

- Cents-Per-Mile Rule - Mr. Sexton and Mr. Seneca did not qualify to use this rule because the value of the Assessor's Office vehicles exceeded the IRS maximum at the date the vehicles were made available to them for personal use. In addition, they did not maintain records of their business and personal use of the vehicles.

<sup>c</sup> Mr. Seneca's imputed income for the use of the office vehicle was for five months of 2014 based on the fair market value according to NADA (\$47,350) at the time he started driving the vehicle.

- Commuting Rule - Mr. Sexton did not qualify to use this rule since the IRS rules do not allow elected officials to use this method. Mr. Seneca did not qualify to use this rule since the Assessor's Office does not have a written policy.
- Unsafe Conditions Commuting Rule - Mr. Sexton and Mr. Seneca could use this rule only if there were unsafe commuting conditions, which was not mentioned during our fieldwork. Moreover, this rule can be used only where the employee ordinarily walks or uses public transportation when commuting to work and the Assessor's Office has a written policy.

Under the Lease Value Rule, the value of a vehicle provided to an employee is determined by using the annual lease value. The IRS publication provides annual lease values based on the fair market value of the vehicle on the first date it is available to any employee for personal use. This amount is then multiplied by the percentage amount of personal mileage. The publication provides that the employee must account to the employer for the business use of the vehicle by keeping written records of the time and place of travel and the business purpose of the travel. However, neither Mr. Sexton nor Mr. Seneca kept records of their business or personal use. In the case of unsubstantiated use, the publication states that any use of an employer vehicle that is not substantiated as business use is included in employee income. Therefore, we used 100% of fair market value as the basis to estimate the unreported income received by Mr. Sexton and Mr. Seneca due to their personal use of Assessor Office vehicles.

#### *Excess Salary*

Mr. Sexton's salary and benefits as the elected Iberville Parish Assessor are set by state law.<sup>4,5,6</sup> Assessor's Office records show Mr. Sexton receives the maximum salary and benefits allowed by state law<sup>4,5,6</sup> before considering the value of his personal use of Assessor's Office vehicles. As previously mentioned, the Assessor's Office did not report any amount of income for his personal use of an Assessor's Office vehicle. If the Assessor's Office would have reported the proper amount of income for Mr. Sexton's personal use of the Assessor's Office vehicles and included it on his W-2, it would have increased his salary beyond the statutory maximum by \$75,494 over the previous six years, which is illustrated in the following table. In addition, the Assessor's Office payroll records show Mr. Sexton's income was \$750 over his statutory maximum in 2014. Mr. Seneca stated that the \$750 was not a payment to Mr. Sexton, but the imputation of income for Mr. Sexton's personal use of an Assessor's Office Vehicle using the IRS's commuter rule. The effect of Mr. Sexton's personal use of an Assessor's Office vehicle on his salary is illustrated in the table below.

<b>Assessor Sexton's Salary and Value of Vehicle Use</b>					
Year	Mr. Sexton's Salary per Accounting System	Value for Mr. Sexton's Use of Assessor's Office Vehicle	Mr. Sexton's Salary and Use of Assessor's Office Vehicles	Maximum Amount per State Law <sup>D</sup>	Amount Over the Statutory Maximum (Personal Use of Vehicle)
2009	\$114,895	\$8,167	\$123,062	\$115,819	\$7,243
2010	123,926	12,250	136,176	123,926	12,250
2011	123,926	12,250	136,176	123,926	12,250
2012	123,926	14,084	138,010	123,926	14,084
2013	128,883	14,250	143,133	128,883	14,250
2014	134,039 <sup>E</sup>	14,667	148,706	134,039	14,667
<b>Total</b>	<b>\$749,595</b>	<b>\$75,668</b>	<b>\$825,263</b>	<b>\$750,519</b>	<b>\$74,744</b>

The Assessor's response to the report states that "Your draft report fails to take into account this '10% expense allowance' as authorized by LSA-R. S. 4 7: 1907 (B), which would in effect 'zero out' that which you allege was not reported." This statement is not correct. As is explained in footnote D, the 10% expense allowance is included in the "Maximum Amount per State Law" calculation.

In summary, the Assessor's Office did not report any income for employee personal use of Assessor's Office vehicles, which appears to violate IRS rules.<sup>3</sup> If the Assessor's Office had properly reported Mr. Sexton's income, it would have caused his salary to exceed the statutory maximum and may violate state law.<sup>4</sup>

### **Assessor Vehicles Not Properly Marked**

**The 2012 and 2015 Ford F-250 pickup trucks owned by the Assessor's Office and used by Mr. Sexton and Mr. Seneca were not properly marked, nor were they equipped with public license plates as required by state law.<sup>10</sup> By not properly marking and equipping the Assessor's Office vehicles with public license plates in accordance with state law,<sup>10</sup> Mr. Sexton may be subject to a fine of \$25 to \$50 per day for the period since the vehicles were put in service, as prescribed by state law.<sup>11,12</sup>**

State law<sup>10</sup> requires vehicles belonging to the state or to any of its political subdivisions to have a public license plate and insignia with the name of the agency on the doors of the vehicles (see Example A on the following page). The two Assessor's Office pickup trucks used by Mr. Sexton and Mr. Seneca have neither door markings (see Example B on the following page) nor public license plates as required by state law.<sup>10</sup>

<sup>D</sup> State law allows Assessors to receive a base salary according to the population of the parish plus \$10,000, plus \$7,000, plus 7% for their certification, plus a 10% expense allowance, plus a 4% annual raise.

<sup>E</sup> The \$750 added to Mr. Sexton's salary for personal use of an Assessor's Office vehicle was subtracted from this amount because it was not an actual payment.



Example A: Public vehicle with proper insignia on door.



Example B: Iberville Parish Assessor's Office vehicle without insignia on door.

Mr. Sexton stated that he was unaware that he was obligated to have public plates and door markings on the Assessor's Office vehicles. He said that not having public plates and door markings was a "complete oversight and not intentional." Mr. Seneca stated that they do have magnetic signs for the door, but they are kept at the office due to them flying off while driving. Attorney General Opinion 07-0072 states that magnetized decals do not meet the requirements set forth in state law<sup>10</sup> for the demarcation of vehicles owned by public entities.

The Assessor's response to the report suggests that only two vehicles are owned by the Iberville Parish Assessor's Office and "each of the said vehicles are used extensively for purposes of investigating, and inspecting property, their values, etc..., all of which would be undermined by identifiable vehicles as recommended by the Auditor's office." We conducted several interviews of Mr. Sexton and Mr. Seneca regarding the door decals and public license plate requirements on Assessor's Office vehicles, but neither ever claimed the trucks were used in an "investigative" role.

Further, the Assessor's Office response mentions that "for purposes of conducting this inquiry, none of the Legislative Auditor's vehicles were identified by the type of insignia discussed in the "draft report." This is because the auditors were using their privately-owned

vehicles. The Legislative Auditor's Office owns three vehicles, all of which are marked and bear public license plates, as required by state law.

By not having the proper identification on the Assessor's Office vehicles, Mr. Sexton may have violated state law<sup>10</sup> and may be subject to fines not less than \$25 nor more than \$50 for each such violation, as prescribed by state law.<sup>11</sup> State law<sup>12</sup> provides the head of any political subdivision that operates or allows an employee to operate a vehicle without the proper markings (door insignia and license plate) has violated the requirements and that each day upon which such a violation is committed shall be considered a separate offense. The \$25 to \$50 per day fine over a period of 41 months the vehicles were used without markings could result in a fine of \$39,500 to \$79,000.

### **Recommendations**

We recommend that the Assessor's Office:

- (1) adhere to the state bid law when purchasing vehicles;
- (2) comply with public records laws by maintaining applicable records as required by state law;
- (3) seek legal counsel regarding what actions should be taken with the two current vehicles that were not properly bid;
- (4) adopt policies to ensure employee use of Assessor's Office vehicles complies with state and federal laws;
- (5) maintain records of the business use of Assessor's Office vehicles;
- (6) consult with legal counsel and a tax advisor to comply with IRS rules and state law regarding the Assessor's undocumented use of the Assessor's Office vehicles;
- (7) consult with legal counsel to determine any amounts the Assessor should reimburse the Assessor's Office as a result of salary overpayments;
- (8) consult with a tax advisor to determine the appropriate amount to be imputed as income to the Deputy Assessor for personal use of the Assessor's Office vehicle for tax year 2014 and subsequent tax years;
- (9) ensure the Assessor's salary does not exceed the maximum allowed by state law; and
- (10) ensure Assessor's Office vehicles are marked and bear a public license plate in accordance with state law.

## LEGAL PROVISIONS

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<sup>1</sup> **Louisiana Revised Statute (La. R.S.) 38:2212.1 (A)(1)(a)** provides that “All purchases of any materials or supplies exceeding the sum of thirty thousand dollars to be paid out of public funds shall be advertised and let by contract to the lowest responsible bidder who has bid according to the specifications as advertised, and no such purchase shall be made except as provided in this Part.”

<sup>2</sup> **La. R.S. 44:36(A)** provides, in part, that “All persons and public bodies having custody or control of any public record, other than conveyance, probate, mortgage, or other permanent records required by existing law to be kept for all time, shall exercise diligence and care in preserving the public record for the period or periods of time specified for such public records in formal records retention schedules developed and approved by the state archivist and director of the division of archives, records management, and history of the Department of State. However, in all instances in which a formal retention schedule has not been executed, such public records shall be preserved and maintained for a period of at least three years from the date on which the public record was made...”

<sup>3</sup> **IRS Publication 15-B** provides, in part, that “Any fringe benefit you provide is taxable and must be included in the recipient’s pay unless the law specifically excludes it.”

<sup>4</sup> **La. R.S. 47:1907** provides that “A.(1) Notwithstanding any other provision of law to the contrary, except the provisions of Subsections H, I, J, and K of this Section, in the performance of all duties required of them by law, the assessors of the various parishes shall receive an annual compensation, to be paid monthly on their own warrant, based on the applicable population of the respective parishes, not to exceed the compensation schedule provided for in this Paragraph according to the latest decennial United States Census or the population estimates published pursuant to the United States Bureau of the Census Federal State Cooperative Program for Population Estimates.

Population:	Compensation:
(a) Greater than 250,000	\$108,290
(b) 50,001 to 249,999	\$98,290
(c) 50,000 or less	\$88,290

(2) The president of the board of assessors for the parish of Orleans shall, for his services as president of the board, receive an extra compensation of one thousand dollars per annum.

(3) Nothing in this Section shall be construed to limit an assessor from participation in an eligible deferred compensation program established in accordance with Section 457 of Title 26 of the Internal Revenue Code. An assessor shall not authorize or receive an employer contribution that would be more favorable than that offered to the employees of the assessor’s office.

(4) The salary of the assessor of Lafayette Parish shall be the salary provided for in Subparagraph (1)(a) of this Subsection regardless of the population of Lafayette Parish.

B. In addition to his salary, each individual assessor shall be granted ten percent of his annual compensation as a personal expense allowance provided that the tax receipts of the respective tax recipient bodies shall not be reduced.

C. The assessors’ professional certification program is hereby established to formalize and recognize the professional standards of assessors engaged in the assessment of property for ad valorem taxation purposes in this state. It is the objective of the program to insure compliance with the requirements of the constitution and laws of the state governing the assessment of property and to assure the citizens and taxpayers of the state that property will be assessed fairly and equitably.

D.(1) The requisite education and training will be provided through courses at state institutions of higher education or other appropriate locations in conjunction with the International Association of Assessing Officers (IAAO) or the Appraisal Institute with additional seminars and workshops being conducted at various locations throughout the state or other appropriate locations. All such instruction shall be offered and directed toward the attainment of the certification and recertification described herein.

(2) For the purposes of this Section, “certified Louisiana assessor” (CLA) shall be a person holding the office of assessor in this state at the time of certification.

E. The assessors’ certification program committee, hereinafter referred to as the “certification committee,” is hereby created to govern the assessors’ professional certification program. The certification committee shall be composed

of five members who shall serve one-year terms and who may be reappointed. The members shall be appointed as follows:

- (1) One member shall be the chairman of the education committee of the Louisiana Assessors Association who shall serve as chairman of the certification committee.
- (2) One member shall be appointed by the Louisiana Tax Commission.
- (3) Two members shall be assessors who have met the requirements for certification as certified Louisiana assessors (CLA's) who shall be appointed by the president of the Louisiana Assessors Association.
- (4) One member shall be a deputy assessor who has met the Louisiana Assessors Association requirements for certification as a certified Louisiana deputy assessor (CLDA) who shall be appointed by the president of the Louisiana Assessors Association.

F.(1) The educational requirements for certification shall be as follows:

- (a) A passing grade on the examination for the International Association of Assessing Officers course 1 - Fundamentals of Real Property Appraisal.
  - (b) A passing grade on the examination for the International Association of Assessing Officers course 2 - Income Approach to Valuation or equivalent courses offered by the Appraisal Institute.
  - (c) A passing grade on the examinations or other evidence of successful completion of two electives equal to or greater than sixty course hours among the courses offered by the International Association of Assessing Officers or the Appraisal Institute.
  - (d) A passing grade on the examination for the International Association of Assessing Officers Uniform Standards of Professional Appraisal Practice (USPAP) on an Appraisal Foundation approved two-day Uniform Standards of Professional Appraisal Practice (USPAP) course.
- (2) The experience requirements for certification shall be met upon the assessor's election by majority of the voters voting in an election called therefor.

G.(1) Recertification shall be obtained by completing either of the following requirements:

- (a) A minimum of fifty-nine hours of continuing education offered by the International Association of Assessing Officers or the Appraisal Institute, which shall include the International Association of Assessing Officers Uniform Standards of Professional Appraisal Practice (USPAP) course or an approved Appraisal Foundation two-day Uniform Standards of Professional Appraisal Practice (USPAP) course and at least one course, thirty hours minimum, on appraisal of property completed by passing a written examination. The remaining hours shall be selected from recertification guidelines as adopted by the certification committee. All designees shall obtain recertification within a five-year period.
  - (b) A minimum of seventy-four hours of continuing education offered by the International Association of Assessing Officers or the Appraisal Institute, which shall include the International Association of Assessing Officers Uniform Standards of Professional Appraisal Practice (USPAP) course or an approved Appraisal Foundation two-day Uniform Standards of Professional Appraisal Practice (USPAP) course and at least one course, thirty hours minimum, on appraisal of property, for which no written examination shall be required. The remaining hours shall be selected from recertification guidelines as adopted by the certification committee. All designees shall obtain recertification within a five-year period.
- (2) Recertification requirements shall be met prior to December 31 of the fifth year. If these requirements are not met, the designee will lose certification and certification compensation until recertification requirements are met. After using a specific course toward recertification, the designee shall not be permitted to use the same course again toward recertification for one five-year period with the exception of the Uniform Standards of Professional Appraisal Practice (USPAP) course. Hours shall not be carried forward from one five-year period to another. If the designee teaches courses for the International Association of Assessing Officers or the Appraisal Institute, the designee shall receive credit for those hours.

H.(1) Notwithstanding any other provisions of law to the contrary, after documents showing the successful completion of the program, resulting in certification as a certified Louisiana assessor (CLA), have been submitted to and approved by the certification committee and said approval documented to the legislative auditor, the assessor shall be recognized through the implementation of a one-time increase in compensation paying additional compensation equal to seven percent of the assessor's annual salary as set forth in Subsection A of this Section.

(2) Any assessor who has completed the educational and experience requirements as provided in Subsection F of this Section, and the documents showing the successful completion of the program have been submitted to and approved by the certification committee and said approval documented to the legislative auditor, shall be granted the

seven-percent increase in compensation to his annual salary as set forth in Subsection A of this Section. Assessors shall complete the requirements of Subsection G of this Section, within five years and every five years thereafter in order to retain the seven-percent compensation enhancement, notwithstanding any other provisions of law to the contrary. (3) If an assessor does not complete the certification program as provided for in this Section, or if after certification an assessor does not receive recertification within each five-year period, his salary shall revert back to the salary scale provided for in Subsection A of this Section.

I. In addition to all other forms of compensation which are authorized for assessors under the provisions of this Section, effective on July 1, 1999, the annual compensation of each assessor shall be increased by ten thousand dollars.

J. In addition to all other forms of compensation which are authorized for assessors under the provisions of this Section, any assessor may increase his annual compensation by an amount not to exceed seven thousand dollars.

K. In addition to all other forms of compensation which are authorized for assessors under the provisions of this Section, each assessor's office may increase the assessor's annual compensation by up to four percent each calendar year for four calendar years, beginning calendar year 2013 and ending calendar year 2016.

<sup>5</sup> **La. R.S. 11:1481(2)(B)(i)** provides that "Notwithstanding the provisions of Subparagraph (a) of this Paragraph and in addition to the amounts required to be paid by the employer, upon providing written notice to the Assessors' Retirement Fund at least fifteen days prior to the beginning of a calendar year, each assessor may elect to pay all or any portion of the contributions required in Subparagraph (a) of this Paragraph of the assessor and the assessor's employees who are eligible for membership in the fund."

<sup>6</sup> **La. R.S. 47:1923 (A)** provides that "The assessor in each of the several parishes of the state may make contracts separately, or jointly through the insurance committee elected by the voting members of the Louisiana Assessors' Association to administer the Assessors' Insurance Fund, for group life and accidental death and dismemberment, disability, group health, accident, dental, hospital, surgical, and other medical expense insurance, with any insurance company legally-authorized to do business in this state, for the purpose of insuring the assessors and the assessors' employees and the dependents of the assessors and assessors' employees under a policy or policies of group insurance covering such persons. The assessor may pay out of the assessors' employees and a portion of the premium or charges for such contracts for dependents of the assessors and assessors' employees, not to exceed one-hundred percent of the premium. The remaining portion of the dependents' premiums shall be paid by the insured persons; provided that no reductions of such contributions to any premiums are to be made on contracts heretofore written and continued in force. Where the assessor and his employees are insured jointly under a group plan administered by the Assessors' Insurance Fund, a fee for the cost of administering the Assessors' Insurance Fund may be paid by the assessor out of the assessor's salary and expense fund when covered by such insurance. The contributions of the insured persons to the premiums of their dependents for such insurance may be deducted by the assessor from the salaries of such persons, when authorized by them so to do, and the total premium and administrative fee remitted by him to the Assessors' Insurance Fund if insured under a plan administered by said fund, or direct to the insurance company with whom the assessor and his employees are insured separately.

<sup>7</sup> **IRS Publication 15-B** provides, in part, that "Under this rule, you determine the value of a vehicle you provide to an employee for commuting use by multiplying each one-way commute (that is, from home to work or from work to home) by \$1.50. If more than one employee commutes in the vehicle, this value applies to each employee. This amount must be included in the employee's wages or reimbursed by the employee."

<sup>8</sup> **IRS Publication 15-B** provides, in part, that "You can use the commuting rule if all the following requirements are met:

- If this vehicle is an automobile (any four-wheeled vehicle, such as a car, pickup truck, or van), the employee who uses it for commuting is not a control employee....

A control employee for a government employer for 2014 is either of the following....

- An elected official.

<sup>9</sup> **IRS Publication 15-B** provides, in part, “Qualified nonpersonal use vehicles. All of an employee’s use of a qualified nonpersonal use vehicle is a working condition benefit. A qualified nonpersonal use vehicle is any vehicle the employee is not likely to use more than minimally for personal purposes because of its design...”

<sup>10</sup> **La. R.S. 49:121 (A)** provides that “Every boat, watercraft, aircraft, automobile, truck, or other vehicle belonging to the state or to any of its political subdivisions, or to any department, board, commission, or agency of any of its political subdivisions shall, if required by law to bear a Louisiana license plate, bear a public license plate, and each such vehicle also shall have inscribed, painted, decaled, or stenciled conspicuously thereon, either with letters not less than two inches in height and not less than one-quarter inch in width or with an insignia containing not less than one hundred forty-four square inches, or if circular, not less than eight inches in diameter, the name of the board, commission, department, agency, or subdivision of the state to which the boat, watercraft, aircraft, automobile, truck, or other vehicle belongs, such as “Louisiana Department of Highways,” or “Louisiana Conservation Commission,” or “School Board-East Baton Rouge,” or “Sheriff-East Baton Rouge,” or “City of Baton Rouge;” however, recognized and approved abbreviations such as “La.,” “Dept.,” “Com.,” “Bd.,” and the like, may be used.”

<sup>11</sup> **La. R.S. 49:123** provides that “Whoever violates any provision of this Part shall be fined not less than twenty-five dollars nor more than fifty dollars for each such violation.”

<sup>12</sup> **La. R.S. 49:121 (G)** provides that “The head of any department or board of the state or any of its subdivisions who operates or who orders, requests, or permits any employee under his control or supervision or any other person to operate any publicly-owned land vehicle, watercraft or aircraft not marked in accordance with the provisions of this Section shall be guilty of a violation thereof. Each day upon which such a violation is committed shall be considered a separate offense.”

## APPENDIX A

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### Management's Response





October 21, 2015

Mr. Daryl G. Purpera  
LOUISIANA LEGISLATIVE AUDITOR  
P.O. Box 94397  
Baton Rouge, La. 70804-9397

via email: [cjlejeune@lla.la.gov](mailto:cjlejeune@lla.la.gov)

*Re: Iberville Parish Assessor's Office*

Dear Mr. Purpera:

Please consider this a response to your proposed findings relative to the Iberville Parish Assessor's Office.

Your proposed findings indicate that this audit *"was initiated after receiving allegations regarding the improper purchase of the vehicles and personal use of those vehicles by the Iberville Parish Assessor."*

Clearly this complaint, filed in an election year, was and is, politically motivated.

Furthermore, your office has performed annual audits during each of the years Mr. Sexton has been the elected assessor. Not a single instance in those years, but more particularly in the years 2012, 2013, 2014, has your office made a single finding as to relates to said vehicles which is the subject of the allegations, despite all records being available and examined by your office during said audits.

As you know the local tax Assessors are a Constitutional Body enumerated in Article 7, § 24. Section 24 of the Louisiana Constitution reads that "[h]is election, duties and compensation shall be provided by law." Further, local Assessors are governed by LSA-R.S. 47:1901 - 47:1923.1. Said regulations set forth such matters

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as Powers and authority (§1903), salaries and expense funds (§ 1906), Salaries (§1907), expenses (§ 1908), etc...

**EACH OF YOUR PROPOSED FINDINGS ARE ADDRESSED BELOW:**

- 1. Public Bid Law Violation - "Iberville Parish Assessor, John Sexton, may have violated state law by purchasing two Ford F-250 trucks without advertising and letting to the lowest responsible bidder."**

Though your proposed finding do not suggest (by your use of the word "may") nor support a finding that the Assessor violated the "public bid law", and it is my firm belief that the Assessor did not, in fact violate the public bid law. Louisiana's "public bid law" is governed by LSA-R.S. 38:2212.1, which sets forth the guidelines for "materials and supplies" which has been interpreted to include other matters.

LSA-R.S. 38:2212.1(A)(1)(a.) sets forth the requirement for items purchased greater than \$30,000.00. However, LSA-R.S. 38:2212.1(A)(1)(b.) allows for obtaining bids with "not less than three telephone or facsimile quotations", which is what Mr. Sexton did in fact do, though he was unaware of the threshold limit of \$10,000.00 when utilizing this method.

Nevertheless, the Assessor has taken the necessary steps to ensure that all aspects of the public bid law are adhered to and that this oversight does not happen in the future. He has implemented a written policy so as to ensure that the public bid law is not in any way violated in the future.

- 2. The Assessor's Office did not report the personal use of Assessor's Office Vehicles by Mr. Sexton and Mr. Seneca from 2009-2014 as required by Internal Revenue Service (IRS) Publication 15-B. Additionally, Mr. Sexton and Mr. Seneca did not keep records of their business or personal use of the Assessor's Office vehicles. Finally since Mr. Sexton paid himself the maximum amount allowed by state law, any personal use of an Assessor's vehicle that was not reimbursed by Mr. Sexton would be considered income and would have exceeded his maximum salary."**

The salaries of the Assessor is set forth by LSA-R.S. 47:1907, et seq. Mr. Seneca, the Deputy Assessor began using Assessor's Office vehicle in August 2014. The Assessor began using an Assessor Office vehicle in May 2009.

### **AS TO MR. SENECA**

First in addressing Mr. Seneca's use of an Assessor's Office vehicle. In accordance with LSA-R.S. 47:1903, the elected Assessor "is authorized to appoint as many deputies as he may require."

Mr. Seneca has been appointed as the Deputy Assessor in accordance with the above authorized provision of law.

As to Mr. Seneca's use of the Assessor's Office vehicle, there is no personal use of said vehicle. Your report which suggest that income should have been attributable to Mr. Seneca for the use of said vehicle is mistaken and wrong. Mr. Seneca is not required to report any use of the Assessor's Office vehicle on his personal taxes as he has NO PERSONAL USE of said vehicle. Your draft report which critiques the lack of a written policy in this regard is likewise misplaced. Mr. Seneca is "on call - 24 hours per day" and as such is thereby authorized to garage the Assessor's Office vehicle at his home.

### **AS TO THE ASSESSOR**

The "draft report" of the Legislative Auditor suggest that the Assessor has been overpaid given his use of an Assessor's Office vehicle.

The salary of the Assessor (Iberville Parish) is established by LSA-R.S. 47:1907(A).

In addition to the monetary amount set forth in LSA-R.S. 47:1907(B), Louisiana law provides that "each individual assessor shall be granted ten percent of his annual compensation as a personal expense allowance provided that the tax

receipts of the respective tax recipient bodies shall not be reduced.”

Your draft report fails to take into account this “10% expense allowance” as authorized by LSA-R.S. 47:1907(B), which would in effect “zero out” that which you allege was not reported.

Mr. Sexton reported his personal use of the Assessor’s office vehicle on his personal taxes by using the IRS’ commuter rule (\$3 per day) based off of the advise of his office accountant. Though your draft report suggest that the “commuter rule” does not apply to elected officials, your draft report fails to recognize that Mr. Sexton is exempt from applying any such income to his income tax returns due to the “gross vehicle weight” of said vehicle(s) being in excess of 6,000 gross vehicle weight.

Mr. Sexton and Mr. Seneca have adhered to each and every recommendation made to them by Louisiana certified public accountants. The recommendations made to them have been the same recommendations made to, and utilized by other parish elected officials.

Furthermore, both Mr. Sexton and Mr. Seneca could have utilized the “Unsafe Conditions Commuting Rule” if their accountant thought that the “commuting rule” somehow applied to them.

The use of “off road vehicles” such as the two Ford F-250 vehicles, are necessary given the terrain of Iberville Parish. Iberville Parish, according to the United States Census Bureau, is 618.63 square miles. Most of the parish is considered “rural” and a large part of the parish is contained within the confines of the Atchafalaya Spillway Basin. More than forth-five (45%) percent of the parish is either woodland, waterways or contained within the Atchafalaya Basin.

And though informed of both Mr. Sexton and Mr. Seneca’s use of their personal off-road vehicles and boats to gain access to Iberville’s most remote properties in order to make proper assessments, your office chose instead to interpret different provisions of the IRS Code so as to attempt to suggest some violation of law.

Both Mr. Sexton and Mr. Seneca have relied upon Louisiana certified public

accountants to audit and give guidance to running an efficient, lawful and user-friendly Assessor's Office.

3. **Assessor Vehicles not Properly Marked - "The 2012 and 2015 Ford F-250 pickup trucks owned by the Assessor's Office and used by Mr. Sexton and Mr. Seneca were not properly marked, nor were they equipped with public license plates as required by state law. ( LSA-R.S. 49:121(A) By not properly marking and equipping the Assessor's Office vehicles with public license plates in accordance with state law, Mr. Sexton may be subject to a fine of \$25 to \$50 per day for the period since the vehicles were put in service as prescribed by state law."**

This proposed finding is unwarranted and inapplicable to the vehicles in question. As defined in Title 47 it is the duty of the Assessor to investigate values of properties located within his/her jurisdiction.

As such, as these are the only two vehicles owned by the Iberville Parish Assessor's Office, each of the said vehicles are used extensively for purposes of investigating, and inspecting property, their values, etc..., all of which would be undermined by identifiable vehicles as recommended by the Auditor's office.

Point in fact - upon arrival at the Iberville Parish Courthouse for purposes of conducting this inquiry, none of the Legislative Auditor's vehicles were identified by the type of insignia discussed in the "draft report." The obvious reason for the lack of markings are exactly the same reason as why the Assessor's Office vehicles are not identified.

LSA-R.S. 49:121(E) provides for an exemption for vehicles used in an investigative manner. LSA-R.S. 49:121(E) provides:

E. Those vehicles used in crime prevention and detection and *similar investigative work*, which if identified as required by this Section could not be used effectively for such purposes, are exempt from the provisions of this Part, and, in addition, the vehicles used by the governor, lieutenant governor, statewide elected officials, the Louisiana School for the Deaf, the Louisiana School for the Visually Impaired, the

Louisiana Special Education Center, the Special School District, and any community and group homes and residential facilities administered by the Department of Children and Family Services or the Department of Health and Hospitals are exempt from the provisions of this Part. (Emphasis mine)

An assessor is charged with protecting the taxpayer's of the parish for which he/she is elected. Part of the duties include site inspections, which if performed only after announcing his presence, would compromise the integrity of the investigation/inspection.

A cursory review of parish assessor's web-sites all reveal the investigative nature of the Office of Assessor:

*---The Calcasieu Parish Assessor is responsible for **discovery**, listing, and valuing all property in Calcasieu Parish for ad valorem tax purposes. This property includes all Real Estate, all Business Movable Property (Personal Property), and all Oil & Gas Property and Equipment. It is the Assessor's duty to ensure all property is assessed in a fair and equitable manner for the property owners. At the same time, the Assessor has to make certain that the assessments are done according to the Louisiana State Constitution, the Revised Statutes that are passed by the Legislature, and the Rules and Regulations set forth by the Louisiana Tax Commission.."*

*— Rapides Parish — "By law, our office is required to **locate**, identify, list, classify, value, and assess all property in the parish for ad valorem taxation according to the Constitution of Louisiana and the laws of the state. This property includes all REAL property (land and buildings) and PERSONAL property (business movables and inventory)."*

*--Natchitoches Parish — "The Assessor is responsible for **discovery**, listing, and valuing all property in Natchitoches Parish for ad valorem tax purposes. This property includes all Real Estate, all Business (Personal Property), Movable, Oil & Gas Property and Equipment. The Assessor's duties are to ensure all property is assessed in a fair and equitable manner. At the same time, the Assessor has to make certain that the assessments are made according to the Constitution and the Revised Statutes of the State of Louisiana , which are passed by the Legislature."*

To require the Assessor, or deputy assessor to announce his presence while performing his duties will certainly compromise the integrity of the investigation and as such cause harm to the residents and governmental entities of Iberville Parish by allowing assets to be hidden or diverted.

Mr. Daryl Purpera  
Legislative Auditor  
Page 7

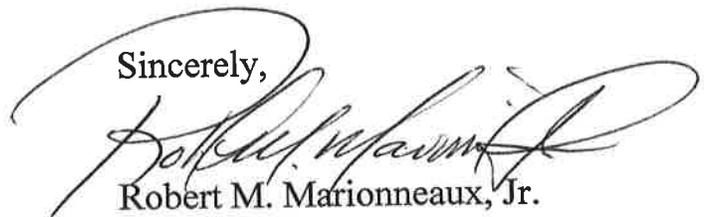
## CONCLUSION:<sup>1</sup>

Having reviewed your “draft report” regarding the Iberville Parish Assessor’s Office, and having discussed same with Mr. Sexton and Mr. Seneca, several improvements to various policies have been implemented.

Our review of your draft report is ongoing and I hereby specifically request that we be allowed to supplement this response as Mr. Baxley is out of state and is calculating the values of any business/personal use of said vehicles.

Should you have any questions, please don’t hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert M. Marionneaux, Jr.", written in black ink.

Robert M. Marionneaux, Jr.

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<sup>1</sup> Please note that in your “draft report”, footnote number 4, you speak of “the assessor of Lafayette Parish” which is not the assessor subject to this inquiry.

# **BAXLEY AND ASSOCIATES, LLC**

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Staci H. Joffrion, CPA/CGMA

October 27, 2015

Iberville Parish Assessor  
The Honorable Randy Sexton

P.O. Box 697  
Plaquemine, LA 70765-0697

Re: Response to Legislative Auditor's Investigative Audit

Dear Mr. Sexton,

The Legislative Auditor's investigative audit report took issue with using the commuting mileage rule of adding \$3.00 per day to your W-2. It was considered inapplicable because IRC § 1.61-21(f)(1)(v) states that it is not available for elected officials. This method of reporting was still advised for the reasons that follow:

- 1) **Assumption:** Based on the information that was provided by you, we assumed that the Ford F-250 truck would only be used for business and commuting purposes only, and that a personal vehicle would be used for all other personal purposes.
- 2) **Exception:** According to IRC § 1.61-21(f)(2)(ii), if the vehicle in which the employee is required to commute is not an automobile as defined by IRC, the control employee (elected official) exception applies. IRC § 1.61-21(d)(1)(ii) defines an "automobile" as any four-wheeled vehicle manufactured primarily for use on public streets, roads, and highways. The Ford F-250 truck has a weight of 7,254 pounds. IRS Publication 946 states that any four-wheeled vehicle that is 6,000 pounds or less is considered a passenger automobile. The Ford F-250 is greater than 6,000 pounds and is not considered a passenger automobile. Since the Ford F-250 truck is not defined as an automobile per IRC, the control employee (elected official) exception is met.

We relied on the assumption and the exception listed above as our basis for using the commuting mileage rule as an appropriate method for reporting on your W-2.

*Baxley & Associates, LLC*

Baxley and Associates, LLC