

CITY OF OPELOUSAS



COMPLIANCE AUDIT

ISSUED SEPTEMBER 5, 2007

**LEGISLATIVE AUDITOR
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September 5, 2007

THE HONORABLE DONALD R. CRAVINS, SR.
MAYOR
CITY OF OPELOUSAS
Opelousas, Louisiana

We have audited certain transactions of the City of Opelousas (City) in accordance with Title 24 of the Louisiana Revised Statutes. Our audit was performed to determine whether funds from the United States Department of Agriculture's Rural Business Enterprise Grants (RBEG) were spent appropriately by the City.

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*; therefore, we are not offering an opinion on the City's financial statements or system of internal control nor assurance as to compliance with laws and regulations.

The accompanying report presents our findings and recommendations as well as management's response. Copies of this report have been delivered to the United States Attorney for the Western District of Louisiana, the District Attorney for the Twenty-seventh Judicial District, the Louisiana State Board of Ethics, and others as required by state law.

Respectfully submitted,

Steve J. Theriot, CPA
Legislative Auditor

GD:GC:DD:sr

OPL07

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The former director of the City of Opelousas (City) Office of Community Development, Louis Rom, appears to have improperly diverted loan proceeds totaling \$10,000 from the City of Opelousas Rural Economic & Community Development Program (ORECD) to himself. Evidence indicates control weaknesses including inadequate documentation of the loan review process, lack of written collection and collateral policies, weak monitoring of loan recipients, and lack of segregation of duties made the diversion of funds possible.

Background

The City's ORECD Program is funded through Rural Business Enterprise Grants (RBEG) awarded by the United States Department of Agriculture (USDA). The City received two RBEG grants--one for \$125,000 in August 1995 and one for \$50,000 in April 1998. The purpose of these grants was to establish a "revolving loan" program to support the development of small and emerging private business enterprises in rural areas. As the grant recipient, the City is the lending institution and responsible for administering the loan program. A 10-member loan committee reviews and approves loan applications.

The City's Office of Community Development administers the Revolving Loan Program. This office maintains the loan files, which include the application, promissory note, credit check, and other loan documentation. Mr. Louis Rom, former director of the Office of Community Development, administered the Revolving Loan Program from June 1, 2004, until he resigned from the City on January 19, 2007. Mr. Rom was responsible for receiving and processing loan applications, submitting applications to the loan committee, preparing check requests for the payment of loan proceeds to approved applicants, and maintaining loan files.

Our office received information claiming that one of the revolving loans approved and disbursed during Mr. Rom's tenure was missing the loan file, that the business which received the loan was never established, and that the loan funds went to Mr. Rom's personal bank account. This loan was given to a business named Evangeline Café. Our audit was performed to determine whether these claims were factual and to assess the general operation of the revolving loan program.

Loan to Evangeline Café

Incomplete/Missing Loan Documentation

Documentation on the Revolving Loan Program is maintained by the Office of Community Development and the City's Finance Department. The files maintained in the Office of Community Development include basic loan documentation such as loan applications, tax returns, business plans, credit reports, and collateral listings. The City's Finance Department maintains separate files on each loan recipient. These files include copies of promissory notes, loan disbursement checks, amortization schedules, and delinquent letters. The Finance Department also keeps copies of check requests for loan disbursements and loan payments from the loan recipients.

During our review of the Revolving Loan Program files maintained in the Office of Community Development, we noted that all of the loans approved during Mr. Rom's tenure had loan files except one, Evangeline Café. The City's Finance Department had files on all of the loans including the loan to Evangeline Café. The promissory note in this file indicated that the address of Evangeline Café was 608 S. Market Street, Opelousas, Louisiana, and the borrower as Anthony Romero. The promissory note was signed "Anthony Romero" and had two witness signatures. Given the missing loan file from the Office of Community Development, we have no other identifying information for Anthony Romero such as social security number, tax return, or credit history.

It should be noted that the loan file for Evangeline Café maintained by the City's Finance Department had two promissory notes--one executed and one unexecuted. According to an employee of the Finance Department, for audit purposes, the two promissory notes were obtained by the City's independent auditor from the Office of Community Development. The original promissory note received by the auditor did not include a street number for Evangeline Café and was unsigned. Mr. Rom later provided the auditor with a second promissory note, which included a signature of "Anthony Romero" and a complete address (608 S. Market Street) for Evangeline Café. Copies of both promissory notes were forwarded to the Finance Department by the independent auditor.

Loan Disbursement to Evangeline Café

According to City records, on January 17, 2006, Mr. Rom prepared a check request for a \$10,000 revolving loan to "Evangeline Café." The check request did not include a physical address for Evangeline Café; however, written notes indicate that Mr. Rom requested the payment be held for him to hand-deliver. As a result, on January 24, 2006, the City issued check number 8857, for \$10,000, to Evangeline Café. A City employee confirmed that Mr. Rom picked up the check. The cancelled check indicates that on January 30, 2006, it was endorsed "For deposit only" at St. Landry Homestead Bank.

The initial loan payment was due on February 6, 2006; however, the payment was not made and the loan became delinquent. According to the Finance Department employee responsible for preparing and mailing delinquent notification letters, she asked Mr. Rom several times for the address of Evangeline Café so she could mail the necessary delinquent notification letter. After several months, she received the address from Mr. Rom. On October 2, 2006, she mailed a delinquent notification letter, and on October 6, 2006, the letter was returned as "return to sender" and "unable to forward." No further delinquent letters were mailed by the City to Evangeline Café nor were any collection efforts made before Mr. Rom resigned in January 2007.

Loan Funds Deposited Into Mr. Rom's Bank Account

On January 30, 2006, the \$10,000 loan disbursement check made payable to Evangeline Café was deposited into a checking account at St. Landry Homestead Federal Savings Bank. This account was in the name of "Louis Paul Rom, DBA Evangeline Café." Mr. Rom was the only authorized person on the account. By February 23, 2006, only \$868 was left in the account. The majority of the loan funds had been either spent or converted to cash.

There are two addresses on the bank account. One address is 424 S. Market Street, which is Mr. Rom's residence. The other address is 326 Dourousseau Rd. This address is the residence of another revolving loan recipient. We spoke to the resident who informed us that he does not know why his home address would be on this bank account because he has no business or other relationship with Evangeline Café. He does remember receiving some mail related to a café, but he discarded it since it did not pertain to him.

No Business Location

The address listed on the promissory note was 608 S. Market Street, Opelousas, Louisiana, and the borrower was listed as Anthony Romero. We spoke to the person who leased the property and confirmed that she never leased the property to either Evangeline Café or Anthony Romero. During the months following the disbursement of loan proceeds to Evangeline Café, the property was sublet to a beauty shop owner. We spoke to the owner of the beauty shop who confirmed that she occupied the property during the entire period following the loan disbursement. In addition, City records show no occupational license having been issued to Evangeline Café.

Mr. Rom's Statement

We spoke to Mr. Rom and his attorney about the loan to Evangeline Café. According to Mr. Rom, the loan committee approved the loan to Evangeline Café. Before disbursing the loan proceeds, Mr. Anthony Romero informed Mr. Rom that he had an opportunity to purchase restaurant equipment but did not have funds for the purchase. According to Mr. Rom, he loaned Mr. Romero \$10,000 in cash to purchase the equipment. After the loan disbursement check was prepared, Mr. Rom delivered it to Mr. Romero. Mr. Romero then gave the check back to Mr. Rom as payment for the earlier loan of \$10,000. At this point, Mr. Rom's attorney ended further discussion of this matter pending his review of City records.

During his interview, Mr. Rom made three statements relating to Evangeline Café that we could not confirm:

1. Mr. Rom stated that Mr. Romero owned Evangeline Café and needed a loan from him to purchase restaurant equipment. We could not locate Mr. Romero or confirm that Mr. Romero exists. Neither Mr. Rom nor City records could confirm Mr. Romero's personal identification, such as social security number, date of birth, telephone number, or home address. Furthermore, we could not confirm through public records, such as Secretary of State, clerk of court, or business permits that the entity "Evangeline Café" exists.
2. Mr. Rom stated that all revolving loans disbursed during his tenure went before the loan committee. We spoke to the three loan committee members who, according to Mr. Rom, were most active on the loan committee and asked them if they approved the loan to Evangeline Café. None of the three were aware of any loan to Evangeline Café.
3. Mr. Rom stated that a local attorney in the City handled the closings on all the approved revolving loans. This attorney confirmed that he handled the loan

closings on all the revolving loans disbursed during Mr. Rom's tenure except the loan to Evangeline Café. In addition, a review of the St. Landry Parish Clerk of Court records indicates that the ORECD Program has mortgages, on either movable or immovable property, for all the businesses that received revolving loans during Mr. Rom's tenure except the loan to Evangeline Café.

Finally, it should be noted that program guidelines for the Revolving Loan Program prohibit the use of loan funds to retire existing debt. If Mr. Romero gave the \$10,000 in loan proceeds to Mr. Rom as payment of his loan from Mr. Rom, this payment would appear to be a violation of program guidelines. During an interview, Mr. Rom stated that loan proceeds could not be used to pay for existing debt.

Poor Internal Controls

Based on our review of the Revolving Loan Program, there appear to be internal control weaknesses in the following areas--inadequate loan documentation, inadequate documentation of loan review, lack of adherence to program requirements, no written policies on key lending practices, poor monitoring of loan recipients, and lack of segregation of duties.

Inadequate Loan Documentation

According to Mr. Rom, he maintained the loan files in the Office of Community Development. The documentation that he tried to maintain was the documentation required of loan applicants as specified in the loan application. This included documentation such as business plans, financial statements, and lists of collateral. Our review of these loan files revealed that the documentation maintained was inconsistent from one file to another. Not all loan files, for instance, contained credit reports or tax returns. In addition, the documentation appeared to be weak or nonexistent on application reviews, monitoring activities, and collection efforts. Finally, the existing documentation seemed to be poorly organized.

Inadequate Loan Review Documentation

According to program guidelines, the 10-member loan committee reviews and then either approves or disapproves all loan requests. The review process is supposed to ensure that business costs are eligible; loan funds are not used to refinance existing debt; loan funds are used within City limits; and loan funds are used to finance a maximum of 75% of total business costs. It is not possible to verify what the loan committee evaluated given the absence of loan committee meeting minutes during Mr. Rom's tenure as director of the Office of Community Development. In addition, there is no other documentation of the review process, such as scoring sheets that objectively measure applicants against program criteria. Finally, there is no documentation on loan applicants that were denied funds nor is there a written basis for the denials.

Violation of Program Guidelines

In some instances, program guidelines were not followed. For example, the program guidelines state that the loan rate will be 5% for all businesses located within the downtown boundaries and 7% outside the boundaries but within the City limits. The downtown boundary includes the area within a one-mile radius of the Courthouse Square. However, at least two loan recipients received the 5% rate even though they were outside the boundaries of the downtown district.

In another instance, program guidelines require loans valued at \$10,000 or less to be repaid within three years. However, at least five \$10,000 ORECD loans were approved with five-year repayment schedules. Finally, program regulations require that all applicants be a registered sole proprietorship, partnership, or corporation established for the purpose of doing business in the City. We noted that four of the loan applicants that received loans during Mr. Rom's tenure had no occupational license from the City and only one of the remaining five loan applicants had a current occupational license.

Weak Program Policy

Although the Revolving Loan Program has written policies for basic loan practices such as eligibility criteria and application procedures, it does not have written policies for collections and loan collateral. Nowhere in the program guidelines is there a written policy with regard to when collection efforts are to be initiated, whom delinquent loans are to be referred, or who initiates the collection efforts nor are there any written policies regarding the level of collateral required of applicants or who is to inspect and verify this collateral. Mr. Rom stated that he did not inspect the collateral of the loan applicants and added that his goal was to have each revolving loan 100% collateralized. He further explained that although there is no written collection policy, his practice was to wait six months after a loan went delinquent before initiating collection efforts.

Poor Monitoring Practices

In addition to approving loans, the City also had the responsibility of servicing the loans. Program guidelines for the Revolving Loan Program require the manager of the program to "monitor projects regularly to determine if any problems exist which may jeopardize the loan." Specifically, the manager of the program must evaluate outstanding loans every three months. According to Mr. Rom, he did not assert a lot of control once the loan applicants received their money. He mentioned that he would occasionally conduct "drive-bys" of businesses that received revolving loans. This lack of monitoring may have contributed to the high delinquency rate on these loans (e.g., seven of nine loans approved during Mr. Rom's tenure have become delinquent).

Weak Segregation of Duties

Although the ORECD loan program is administered through the Office of Community Development, the City's Finance Department had the responsibility of preparing loan disbursement checks, receiving loan repayments, and preparing and sending out delinquent notification letters. Based on handwritten notations on the check requests, it appears that Mr. Rom personally picked up many of the loan disbursement checks and delivered them. A proper segregation of duties is necessary to safeguard public assets. The responsibility for delivering the disbursement checks should not reside with the director of community development who is involved in the approval process for loan applicants.

This report has been provided to the District Attorney for the Twenty-seventh Judicial District and the United States Attorney for the Western District of Louisiana. The actual determination as to whether an individual is subject to formal charge is at the discretion of the district attorney or United States Attorney.¹

¹**R.S. 14:67** provides, in part, that theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations.

R.S. 14:72 provides, in part, that forgery is the false making or altering, with intent to defraud, of any signature to, or any part of, any writing purporting to have legal efficacy.

R.S. 14:133 provides, in part, that filing false public records is the filing or depositing for record in any public office or with any public official, or the maintaining as required by law, regulation, or rule, with knowledge of its falsity, any forged document, any wrongfully altered document, or any document containing a false statement or false representation of a material fact.

R.S. 14:134 provides, in part, that malfeasance in office is committed when any public officer or public employee shall (1) intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; (2) intentionally perform any such duty in an unlawful manner; or (3) knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him or to perform any such duty in an unlawful manner.

The City should consider implementing the following recommendations to ensure the proper administration of the Revolving Loan Program:

1. The Finance Department should not disburse loan proceeds based upon a check request from the director of the Revolving Loan Program as is the current practice. The department should only disburse loan proceeds upon receipt of written documentation from the loan committee that the loan was reviewed and approved by the committee.
2. All loan disbursements should be mailed. During our review we noted that on several loans, the director of the Revolving Loan Program picked up the City's loan disbursement check. These disbursement checks should be mailed to ensure that the checks reach the intended loan recipient and that accurate contact information for each loan recipient is acquired.
3. Minutes should be recorded for all meetings of the loan committee. These minutes would serve to document the application review process more thoroughly, as well as strengthening the audit trail for the program.
4. The City should develop a checklist that includes all eligibility loan requirements that have to be met by loan applicants according to the revolving loan program requirements. The checklist should have to be completed and signed by the director of the Revolving Loan Program before approving any loan applicant. This checklist would help ensure that program requirements are adhered to and loan proceeds only go to eligible applicants.
5. The City should maintain a file for denied loan applications. For each loan application, there should be a written explanation for the basis of the denial. Maintaining this file would help ensure that the loan application review process is conducted fairly and without bias.
6. The City should develop a policy on loan collateral. The policy should specify the minimum required level of collateral for all revolving loans. The policy should also require an inspection and verification of the collateral before loan approval.
7. The City should develop a policy on collections. The policy should state the time frame a loan can be delinquent before initiating collection efforts, the party responsible for initiating collection efforts (i.e., City Finance Department, loan committee, or director of Revolving Loan Program), and the party responsible for making the collections.
8. The City should strengthen the monitoring aspect of the Revolving Loan Program. A schedule of periodic site visits should be established for each loan recipient. These site visits should evaluate progress by the loan recipient, note any deficiencies, and state the corrective action to be taken. All site visits should be documented.

9. The City should develop a checklist of documentation to be maintained in each loan file. This documentation should include, at a minimum, approval of loan application, signed promissory note, loan application, eligibility documentation as specified in loan application, list of collateral, and documentation of all monitoring activities.
10. The City should develop a policy that prevents employees responsible for the revolving loan program and loan committee members from engaging in any type of relationship with loan applicants or recipients that would give the appearance of impropriety. The independence of these individuals is essential for the integrity of the program.
11. The City should seek recovery of the \$10,000 loan amount to Evangeline Café from Mr. Rom.

The City of Opelousas was incorporated under Louisiana Revised Statute 33:321-481. It operates under a Mayor and Board of Alderman form of government. The City has an elected mayor, six aldermen, and a chief of police who serve four-year terms. The City is a primary government under Governmental Accounting Standards Board Statement No. 14 and it is fiscally independent of other state or local governments. It has the authority to levy and collect taxes and to assume indebtedness.

The legislative auditor received allegations that loan funds disbursed through the City's ORECD Program may have improperly gone to a City employee.

The procedures performed during this audit consisted of:

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

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Management's Response



DONALD CRAVINS, SR.
MAYOR

City of Opelousas

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**CITY CLERK
& TAX COLLECTOR**
FRANCES CARRON, MMC

OFFICERS
PERRY GALLOW
CHIEF OF POLICE
LEE CAHANIN
FIRE CHIEF
KENNETH BOAGNI, JR.
CITY JUDGE
PAUL MOUTON
MARSHAL OF WARD ONE

August 15, 2007

Steve J. Theriot
Legislative Auditor
P O Box 94397
Baton Rouge, LA 94397

Dear Mr. Theriot:

The current administration became aware of irregularities in the handling of the City of Opelousas Rural Economic & Community Development Program (ORECD) sometime in late February during the 2005-2006 audit performed by John S. Dowling & Co. At that point, the program was temporarily suspended until management examined the program and all of its regulations.

The City contacted Ms. Judy Meche, regional contact, of the Rural Development Office in Alexandria for information and guidance. On March 20, 2007, Ms. Meche conducted a complete training at City Hall on the federal regulations and guidelines that were required by the OREDC program. This training was attended by the four employees who would be responsible in re-implementing the program. Ms. Meche also reviewed all OREDC files that were in our possession. These files were removed from Lou Rom's office upon his termination. Upon review, Ms. Meche stated the OREDC program should remain inactive until all non-compliance issues were addressed.

The City hired Lessie Handy as the new Community Development director on April 30, 2007. The daily management of the OREDC program has been assigned to Ms. Handy, who has also been trained by the Rural Development Office. Ms. Handy is currently addressing the issues disclosed during Judy Meche's review of past OREDC recipients.

Following is management's response to the findings in your audit:

1: Disbursement of Loans

The City has implemented the policy that all loan disbursement requests have to be submitted to the City Comptroller for review of proper documentation. Each disbursement request is required to have the following paperwork attached: loan

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application, loan committee meeting minutes approving the loan application, original promissory note and collateral guarantee issued by the attorney, and amortization schedule stating loan terms. All documentation is filed separately at City Hall under the direction of the accounting department.

2: Loan Disbursement Mailings

Loan recipients have the option of having the check mailed or picked up in person from the accountant in charge upon proof of proper identification.

3: Loan Committee Minutes

Minutes are currently being recorded for all loan committee meetings and filed at the Community Development Office.

4: Loan Requirement Checklists

All federal guidelines are now followed for applicant eligibility review. Documentation is reviewed and signed by the director. Checklists of these procedures will be established immediately.

5: Denied Loan Applications

All denied loan applications are filed with documentation including, but not limited to, reason for denial, minutes of loan committee meeting, and denial letter issued to loan applicant. All loan application reviews are conducted in accordance with the federal guidelines of the OREDC program.

6: Loan Collateral

Loan collateral is verified and inspected during the review process and a detailed collateral guarantee is prepared with the promissory note by the attorney.

7: Collections

The City has developed a policy, following Rural Development suggestions, on the collection of delinquent loans. This policy is currently being written to implement the periodic inspection and verification of collateral.

8: Monitoring Program

A policy is current being written to establish a schedule for period site visits of each loan recipient that will be fully documented and filed.

9: Loan File Documentation

The City has implemented a policy on the required documentation to be maintained in each loan file in accordance with OREDC federal guidelines.

10: Loan Applicant Relationships

The City will develop an ethics policy preventing employees and loan committee members from engaging in any type of relationship with loan applicants. Attestation to this policy will be signed by all directors, supervisors, employees, and loan committee members involved in the OREDC program.

11: Evangeline Café

The City will request the St. Landry Parish District Attorney's office pursue all possible criminal charges against Mr. Rom for his fraudulent activities while employed as OREDC director and seek restitution of the \$10,000.00 issued to Evangeline Café, as recommended by the State Legislative Auditor's office.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald R. Cravins", with a long horizontal flourish extending to the right.

Donald R. Cravins, Mayor