

# **Investigative Report**

## **Arkansas Legislative Audit**

### **Review of Selected Disbursements Pulaski County Regional Solid Waste Management District**

December 1, 2016 through June 30, 2022



## **INTRODUCTION**

This report is issued as a result of Arkansas Legislative Audit (ALA) identifying questionable disbursements by the Pulaski County Regional Solid Waste Management District (District), when conducting another engagement.<sup>1</sup> These disbursements included payments to an individual providing services to the District, as well as a company owned by this individual, and contributions/donations to charities and other organizations, including a nonprofit entity established and managed by the District's Director.

## **OBJECTIVE, SCOPE, AND METHODOLOGY**

The objective of this investigative review was to determine the propriety of disbursements identified as questionable. This review was conducted primarily for the period December 1, 2016 through June 30, 2022. ALA staff reviewed relevant District records, including general ledgers, bank statements, invoices, Board meeting minutes, contracts, and applicable Arkansas Code. In addition, various individuals were interviewed.

## **BACKGROUND**

Authorized by Act 752 of 1991, the District was established in 1992 and serves Pulaski County and the municipalities within it. This Act also required the District to be governed by a Regional Solid Waste Management Board (Board). The District Board is comprised of the Pulaski County Judge and the Mayors of the cities of Jacksonville, Little Rock, Maumelle, North Little Rock, Sherwood, and Wrightsville. The District assists local governments in Pulaski County with planning and overseeing municipal solid waste management programs, administers recycling grants, and operates a waste tire management program.<sup>2</sup>

## **RESULTS OF REVIEW**

According to Ark. Code Ann. § 8-6-704, the regional solid waste management boards shall adopt county purchasing procedures as their approved purchasing procedures, as provided in Ark. Code Ann. §§ 14-22-101 – 14-22-115, and the solid waste management districts shall follow these procedures. In addition, the stated purpose of Ark. Code Ann. § 8-6-701 is to protect the public's health and the State's environmental quality by establishing regional solid waste management and planning.

<sup>1</sup>ALA identified the questionable disbursements during a limited scope review of the Department of Energy and Environment - Division of Environmental Quality (DEQ) and the State's used tire programs. See Special Report - Review of Selected Policies, Procedures, and Transactions Pertaining to Waste Tires - Department of Energy and Environment - Division of Environmental Quality (DEQ) and Used Tire Programs issued by ALA, dated January 9, 2023. This report (ID #SPSR00622) is available on ALA's website: <https://arklegaudit.gov/downloadReport.php?id=SPSR00622>.

<sup>2</sup>Currently, the Pulaski County Inter-District (PID) Used Tire Program is comprised of 20 counties and the cities within these counties. Information concerning the PID is available in the report listed in footnote 1.

**ARKANSAS LEGISLATIVE AUDIT**  
500 Woodlane Street, Suite 172, Little Rock, AR 72201  
Phone: 501-683-8600 • Fax: 501-683-8605  
[www.arklegaudit.gov](http://www.arklegaudit.gov)

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Furthermore, use of public funds should adhere to the public purpose doctrine, about which the Arkansas Supreme Court stated, “No principle of constitutional law is more fundamental or more firmly established than the rule that the State cannot, within the limits of due process, appropriate public funds to a private purpose.”<sup>3</sup> Finally, the Attorney General noted in Op. Att’y Gen. 2012-094 that “the public benefit attending any expenditure of public funds must be clear and direct, with any private benefit being merely incidental . . . .”

Using these criteria, ALA’s review of District financial records revealed questionable disbursements, improper reimbursements, and other issues, as discussed below.

### **Questionable Payments to an Individual and Related Company**

During the period December 1, 2016 through June 30, 2022, the District paid \$912,854 to an individual (Contractor) for waste tire coordination services (approximately \$290,000) and to a company owned by this Contractor for advertising/media services (approximately \$622,000).

The District did not solicit bids or enter into contracts for advertising/media services and waste tire coordination services until March 22, 2019, and May 18, 2021, respectively. Therefore, payments of \$142,973 (advertising/media services) and \$212,624 (waste tire coordination services) prior to these dates were made without obtaining bids, as required by Ark. Code Ann. §§ 14-22-101 – 14-22-115, and without executed contracts, in noncompliance with Ark. Code Ann. § 8-6-704.

Review of payments to the Contractor indicated the Contractor was paid \$34,000 (\$5,667 per month), during the period January 1 through June 30, 2022, for performing waste tire coordination services. Although the contract for waste tire coordination services indicates the Contractor would prepare all necessary paperwork for activity reporting to the Division of Environmental Quality (DEQ; i.e., use of the tire electronic manifest system on DEQ’s website), the Contractor’s company submitted six monthly invoices for \$480 for “manifest entry”; therefore, it appears the Contractor’s company was overpaid \$2,880 for these services.

### **Improper Reimbursements to District Director**

ALA staff review revealed improper reimbursements totaling \$700 to the District Director. As listed below, these reimbursements lack a clear and direct public benefit:

- \$501 for an employee Christmas party held in 2017 (including \$73 for alcoholic beverages).
- \$137 for parking and meals for which the District had already paid. The Director subsequently reimbursed \$64, leaving \$73 due the District.
- \$62 for a lunch with District staff with no business purpose indicated.

### **Contributions/Donations to Charities and Other Organizations**

The District made the following contributions, totaling \$63,645, to various charities and other organizations, which do not align with the purpose of regional solid waste management districts provided in Ark. Code Ann. § 8-6-701 or the public purpose doctrine:

- \$31,250 in event sponsorships.
  - \$30,000 paid to the Clinton Foundation to sponsor an art exhibit.
  - \$1,250 paid to other organizations for event sponsorships.

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<sup>3</sup>See *Chandler v. Board of Trustees*, 236 Ark. 256, 258, 365 S.W.2d 447, 448-49 (1963).

Although the District received some recognition for these sponsorships and had a written agreement for the Clinton Foundation sponsorship, ALA staff question whether these sponsorships resulted in clear and direct public benefit to the District or meet the purpose of regional solid waste management districts provided in Ark. Code Ann. § 8-6-701.

- \$17,000 paid to Recycling Research Resources Foundation (Foundation), a nonprofit organization established and managed by the District Director. Although invoices were provided, ALA staff were unable to determine the specific services the District received in exchange for these contributions. Subsequent to making these contributions, the District entered into a written “service agreement” with the Foundation for future contributions. However, as long as the Foundation and the District share the same management, ALA would continue to question the propriety of this arrangement. It should be noted that the Contractor, discussed on page 2 of the report, is an officer of the Foundation.
- \$14,145 in donations to charities and other nonprofit entities without contracts for services.
- \$1,250 for tickets to a banquet at a local college without an apparent business purpose.

Additionally, the District purchased two paintings for \$15,046 in January 2017 and, in July 2020, donated the paintings to the Little Rock Convention and Visitors Bureau. ALA staff question whether this purchase and subsequent donation meet the purpose of regional solid waste management districts provided in Ark. Code Ann. § 8-6-701.

## RECOMMENDATIONS

ALA staff recommend the District obtain contracts for services as required by Ark. Code Ann. § 8-6-704. Also, ALA staff recommend the District ensure that disbursements comply with the public purpose doctrine and the stated purpose of solid waste management districts provided in Ark. Code Ann. § 8-6-701.

## MANAGEMENT RESPONSE

Management response is provided in its entirety in **Appendix A**.

## SUMMARY

ALA staff review indicated the District made questionable payments, totaling \$355,597, to an individual (Contractor) providing services to the District, as well as a company owned by this Contractor, without obtaining bids or executing contracts, as required by Arkansas Code. Also, it appears the Contractor’s company was overpaid \$2,880 for duplicate services. The District Director was improperly reimbursed \$700 for expenses without a clear and direct public benefit. In addition, the District made contributions/donations totaling \$63,645 to charities and other organizations, including a nonprofit entity established and managed by the District’s Director and for which the Contractor is an officer. Lastly, the District purchased two paintings costing \$15,046 that were subsequently donated to the Little Rock Convention and Visitors Bureau. ALA staff question whether this purchase and subsequent donation meet the purpose of regional solid waste management districts provided in Ark. Code Ann. § 8-6-701.

This report has been forwarded to the Sixth Judicial District Prosecuting Attorney and the Attorney General.

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## Appendix A

### Management Response



July 25, 2023

Ms. Kim Williams  
Mr. Jimmy Locke  
Arkansas Legislative Audit  
500 Woodlane St., #172  
Little Rock, AR 72201

Dear Kim and Jimmy:

Thank you for sharing with us the Pulaski County Regional Solid Waste Management District Review of Selected Disbursements Report. We appreciate the opportunity to discuss the report with you and the opportunity to offer the following response to the report.

1. **Audit Period** – The audit period was from December 1, 2016, through June 30, 2022. We would note the current executive management of the District did not begin until July 1, 2016.
2. **Questionable Payments** – The payments in question were for waste tire program coordination and media/advertising and general communications services, as noted. With the advent of the development of a new waste tire program, as proposed by the Division of Environmental Quality (DEQ), we felt it important to quickly bring on board independent contractor to monitor the development of the new program and ultimately follow the 2017 passage of legislation setting it up. And, of course, consequently be involved with the roll-out of the regulations (Reg. 36) governing the new waste tire program. This occurred in 2017 and 2018. As noted by the audit, bids were ultimately taken in 2019 for the ongoing services in question, and contracts now exist for those services.

It should be clarified that waste tire coordination payments encompassed all of the above-mentioned services, as well as the DEQ-required submission of manifests, which were both in paper form and the requirement of data entry of the information in the DEQ e-portal. The \$290,000 paid to the Waste Tire Coordinator was over the 5-1/2-year audit period, and averaged \$4,400 per month, or a fee for actual time spent of \$54,000 per year.

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The \$622,000 in media/advertising services over the 5-1/2-year period were 100% pass-throughs, as the coordinator planned, placed, verified media placement, and paid invoices for District communications services promoting general recycling, waste tire collection centers, electronic waste recycling, and household hazardous waste collection. The District's media/advertising budget is approximately \$125,000 per year. All media placement is now billed direct to the District, and handled by the District CFO, as the coordinator simply does not have time – due to the workload of the waste tire program – to verify all invoices and then submit monthly payment requests to the District.

All bids have been taken and all contracts are now in place,

3. **Reimbursements to Director** – These reimbursements were for District-related events for District staff. All events, including recycling-related activities associated with the events, are now billed directly to the District when they occur.
4. **Contributions to Charities or Non-Profits** – The \$30,000 paid to the Clinton Foundation, outlined in the written agreement between the Foundation and the District, was for the plastic recycling exhibit, "Washed Ashore." The exhibit of sculptures made from plastic harvested from rivers, lakes, and oceans were on display along with lectures regarding plastic disposal and recycling targeting elementary school field trips and the general public. The exhibit was directly associated with the purpose and mission of the Regional Solid Waste Management District.

Likewise, the contribution to the Recycling Resources Foundation enabled the non-profit to establish research services for recycling-related industries. The Foundation was registered by the District Director to further the recycling mission on a statewide basis. The Foundation is recognized by the Arkansas Economic Development Commission and an AEDC-managed federal program as a third-party provider of information, and has, to-date, qualified for two investments by AEDC for private-industry research for plastic recycling and glass recycling. The glass recycling research performed by the Foundation contributed to the recent announcement of a glass recycling industry to be built in North Little Rock, initially creating 30 private-sector jobs.

Other donations to non-profits were for such support as Keep Arkansas Beautiful, Keep North Little Rock Beautiful, the annual Arkansas Recycling Coalition Conference, and the annual Little Rock Sustainability Conference.

5. **Paintings** – In January 2017, prior to the current executive management being employed by the District, the previous Director approved a contribution to the Little Rock Convention and Visitors Bureau (LRCVB). This contribution was not for, nor did it further the purpose of the District, or recycling in general. While the paintings in

## Appendix A (Continued)

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question were considered to be "on loan" to the LRCVB, the District Board approved donating the paintings to the LRCVB, rather than carry them on our books. Practices similar to this have not and will not occur under current District executive and Board management.

6. **Recommendations** – The District put in place in 2019 a policy requiring bids and contracts for all associated services for the District in general, and recycling and waste reduction in particular, consistent with Pulaski County purchasing procedures. Board approval is required for all contracts.

Thank you for your direction and the opportunity to provide this response.

Best regards,



Craig Douglass  
Executive Director

CD/csd

cc: Rachel Blair



