

# ***Special Report***

## ***Arkansas Legislative Audit***

# **Review of Selected Financial Records and Transactions City of Augusta**

For the Period January 1, 2020 through December 31, 2022



## **INTRODUCTION**

This report is issued in response to a request from the Legislative Joint Auditing Committee (LJAC) for Arkansas Legislative Audit (ALA) to review selected financial records and transactions for the City of Augusta (City). The LJAC requested the review subsequent to (a) learning that the City had not obtained required annual audits since 2016 and (b) receiving allegations of improprieties.

## **OBJECTIVES**

The objectives of this review were to:

- Review selected disbursements and transactions for propriety and compliance with applicable Arkansas laws.
- Determine if City officials obtained required audits.
- Disclose information about other issues discovered during ALA review and discussed at LJAC meetings.

## **SCOPE AND METHODOLOGY**

This review was conducted primarily for the period January 1, 2020 through December 31, 2022. ALA staff reviewed City Council minutes, payroll records, cancelled checks, credit card statements, invoices, bank statements, bank deposits, utility revenue records, utility customer account write-offs and adjustments, and other pertinent records, as well as applicable Arkansas Code sections, Arkansas Constitution provisions, and Attorney General opinions. In addition, ALA staff interviewed various individuals.

## **BACKGROUND**

Located in Woodruff County, the City is a municipality of the first class operating under the mayor-council form of government. The City Council consists of eight council members who govern the City and its Utility Department, which provides water, sewer, electricity, and gas services to approximately 1,300 customers. The current Mayor took office in 2019.

### **ARKANSAS LEGISLATIVE AUDIT**

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## RESULTS OF REVIEW

To conduct this review, ALA staff reviewed certain sections of Arkansas Code and the Arkansas Constitution, as well as certain applicable Attorney General opinions, related to use of public funds; prohibited actions by municipal officials or employees; and requirements for audits, contracts, purchasing, financial reporting, budgets, and internal controls. These legal criteria are discussed in detail in **Appendix A**.

Using these criteria, ALA's review of City financial records, primarily on a test basis, indicated noncompliance with Arkansas Code; questionable adjustments to, and write-offs of, utility customer accounts; lack of competitive bidding for purchases; credit card purchases and other disbursements without a business purpose or proper supporting documentation; salary overpayments; lack of annual audits or agreed-upon procedures reports (AUPs); and other issues, as discussed by topic below.

### Improper Transactions

#### Questionable Adjustments and Write-Offs to Utility Customer Accounts

The City did not have a documented policy or approval process for adjusting utility customer accounts, and the Mayor was the only official who authorized these adjustments. Adjustments to utility customer accounts, according to the Utility Clerk, were based on verbal authorization by the Mayor to adjust a customer's bill to the minimum charge for water and sewer usage, remove penalty or service charges, and/or reduce electric or gas usage; such adjustments may be made for several months on the same account. Reasons for the adjustments, such as an incorrect meter reading or a water leak, may have been provided; at other times, no reasons for the adjustments were given. Based on normal practice, the Utility Clerk printed the current bill for the customer, wrote off the adjustment authorized by the Mayor on the bill, and forwarded the adjustment request to the Bookkeeper, who made the change in the computer system.

Similarly, the City did not have a documented policy or approval process for writing off utility customer accounts. However, the Bookkeeper indicated the following practice has been used for 26 years: Write-offs to utility customer accounts involved printing "final bills" for delinquent accounts, including those accounts of customers who have moved yet have an outstanding balance and customers whose services had been shut off, and placing the printed copies in a binder. At the end of each calendar year, the Bookkeeper writes off all the final bills in the binder.

ALA staff review revealed adjustments and write-offs totaling \$167,978 were made to utility customer accounts during the review period, as shown in **Exhibit I**. ALA staff reviewed 30 of these adjustments/write-offs, totaling \$34,572, for propriety. Of these 30, 13 (43%) were authorized by the Mayor without a reason provided. These 13 adjustments/write-offs totaled \$14,764, and included accounts for the Mayor's daughter (\$438), two City Council Members (\$361), and the Mayor (\$59).

#### **Exhibit I**

City of Augusta  
Adjustments and Write-Offs to Utility Customer Accounts  
For the Period January 1, 2020 through December 31, 2022

Utility Customer Accounts	Calendar Year			Totals
	2020	2021	2022	
Adjustments	\$ 24,685	\$ 29,592	\$ 30,929	\$ 85,206
Write-Offs	13,572	25,472	43,728	82,772
<b>Total Adjustments and Write-Offs</b>	<b>\$ 38,257</b>	<b>\$ 55,064</b>	<b>\$ 74,657</b>	<b>\$ 167,978</b>

**Source:** City records (unaudited by Arkansas Legislative Audit)

ALA review of the utility billing cycle ending December 10, 2023, revealed the Mayor authorized payment extensions totaling \$55,242 on delinquent accounts to prevent shut-off of utilities for these customers. The utility customer accounts that were granted extensions included the Mayor's daughter (\$1,839), two City employees (\$1,329), and a City Council Member (\$69).

The Mayor's practice of having utility customer accounts adjusted or written off without a Council-approved policy could result in preferential treatment or inconsistent processing of customer accounts. Furthermore, any policy adopted by the Council should ensure adherence with Ark. Code Ann. § 14-42-108 and Op. Att'y Gen. no. 89-316.

#### Purchases Requiring Competitive Bids

As allowed by Arkansas Code, the Council adopted City of Augusta Ordinance no. 423 (October 6, 1997), which authorized the Mayor to approve purchases less than \$10,000, without engaging in competitive bidding. ALA selected 14 disbursements over \$10,000 to determine if the City obtained competitive bids. As a result of this testing, ALA staff determined that four purchases were properly bid, while bids were not solicited or waived for the following 10 purchases totaling \$335,026:

- \$252,400 for tree and debris removal (paid to seven separate vendors in 2021 and 2022).
- \$45,251 for Courtroom flooding repairs.
- \$21,750 for a Recycling Center concrete project.
- \$15,625 for engine replacement in City-owned equipment.

#### Credit Card Purchases

The City possessed one bank-issued credit account, with separate cards assigned to the Mayor and "Personnel," as well as three vendor credit accounts, used by the Mayor, City Clerk, and heads of certain departments within City government.

ALA staff review of one credit card statement per year from each of the four credit accounts and other selected credit card purchases revealed \$15,203 in charges for which a business purpose could not be determined, as shown in **Exhibit II on page 4**. These charges are listed below by type of items purchased. Without adequate documentation, ALA questions if these purchases adhere to Ark. Code Ann. § 14-59-105; Ark. Const. art. 12, § 5; and the public purpose doctrine.

- \$5,076 for lodging.
- \$4,449 to restaurants, including \$3,728 at a restaurant in the City.
- \$1,926 for food.
- \$971 for clothing.
- \$915 to PayPal.
- \$669 to convenience stores.
- \$1,197 for miscellaneous items (including an air purifier, vacuum cleaner, deep fryer, and television).

Specific items purchased via PayPal and at convenience stores could not be identified due to a lack of documentation. Additionally, the individual(s) responsible for \$5,551 of the total charges could not be determined due to (a) charges lacking supporting documentation and (b) illegible or missing signatures on credit card charge slips.

**Exhibit II**

City of Augusta  
Test of Three Months of Credit Card Statements and Other Selected Credit Card Purchases  
Without a Documented Business Purpose  
For the Period January 1, 2020 through December 31, 2022

Purchases Of/From	Purchases Made By			Totals (Note 3)
	Mayor (Note 1)	Other Employees	Unknown (Note 2)	
Lodging	\$ 2,108	\$ 697	\$ 2,271	\$ 5,076
Restaurants	4,066	42	341	4,449
Food	1,317	26	583	1,926
Clothing		340	631	971
PayPal (Note 4)			915	915
Convenience stores (Note 4)	452		217	669
Miscellaneous items (Note 5)	396	208	593	1,197
<b>Totals</b>	<b>\$ 8,339</b>	<b>\$ 1,313</b>	<b>\$ 5,551</b>	<b>\$ 15,203</b>

Note 1: Amounts in this column represent charges on the credit card assigned to the Mayor. The Mayor signed credit card charge slips for purchases totaling \$4,208; the individual(s) responsible for the remaining charges of \$4,131 could not be determined.

Note 2: Due to charges lacking supporting documentation and illegible or missing signatures on credit card receipts, the individual(s) responsible for these charges could not be determined.

Note 3: Totals only include a test of credit card purchases for three months and other selected purchases for the review period.

Note 4: Specific items purchased could not be determined due to a lack of documentation.

Note 5: Miscellaneous items include air purifier, vacuum cleaner, deep fryer, and television.

**Source:** City credit card statements and supporting documentation for charges/purchases (unaudited by Arkansas Legislative Audit)

Other Disbursements

ALA staff review of bank statements and journals for certain funds; selected disbursements to City officials, employees, and individuals; and available documentation revealed disbursements without a business purpose, undocumented or inadequately documented disbursements, and bank overdraft fees, as discussed below. Without sufficient documentation, ALA questions if these purchases adhere to Ark. Code Ann. § 14-59-105; Ark. Const. art. 12, § 5; and the public purpose doctrine.

*Disbursements Without a Business Purpose*

ALA review of selected disbursements revealed reimbursements to City officials, totaling \$808, with no apparent business purpose. These included \$562 paid to the City Clerk for clothing, decorations, and hotel expenditures and \$246 paid to the Mayor for meals.

*Undocumented/Inadequately Documented Disbursements*

Checks totaling \$9,568 were issued to officials, employees, and individuals without documentation or with inadequate documentation; therefore, the validity of these disbursements could not be determined:

- Four checks totaling \$7,030 were issued to two individuals without adequate supporting documentation.
- Three checks totaling \$1,100 were paid to the Mayor without supporting documentation.
- An employee was paid \$800 without supporting documentation.
- The City Clerk was reimbursed \$638 without adequate supporting documentation.

#### *Bank Statement Review*

ALA review of bank statements revealed the City paid \$728 in bank fees due to insufficient funds. ALA staff noted that checks contained the signatures of the Mayor and City Clerk, and bank statements were reviewed and reconciled monthly, as required by Ark. Code Ann. §§ 14-59-105, -108.

#### Salary Overpayments and Budget Issue

The City paid \$2,782, \$1,827, and \$2,063 in excess of approved salary to the Mayor in 2022, 2021, and 2020, respectively, resulting in salary overpayments totaling \$6,672. According to the proposed budget information provided to the Council, the Mayor's salary remained constant for the three years ended 2022. Furthermore, in 2022, the Assistant to the Mayor/City Clerk was paid \$4,239 more than the appropriated amount. The authorized salary for this individual was not available for 2021 or 2020. Additionally, during comparison of budgeted salary amounts to amounts paid, ALA staff noted the Council did not adopt the City's operating budget by ordinance or resolution for the three years covered in the review period, in noncompliance with Ark. Code Ann. § 14-58-202.

#### **Lack of Annual Audits or Agreed Upon Procedures Reports**

As required by Ark. Code Ann. § 14-58-101, the Council did not timely select an accounting firm to complete the financial audits of the City for the six calendar years ended December 31, 2022. Furthermore, the City did not obtain annual audits or AUPs within one year of the fiscal year-end for its water and sewer system, as required by Ark. Code Ann. § 14-234-119.

The financial audit for the year ended December 31, 2016, was issued on July 19, 2019, and contained nine findings. The financial audit for the year ended December 31, 2017, was issued on October 2, 2023, and contained 10 findings. Both audits included the water and sewer system.

Financial audits for the years ended December 31, 2018 through 2022, were being conducted by a certified public accounting firm as of report date.

#### **Other Issues**

##### Utility Customer Account Collections

ALA staff compared utility customer account collections with bank deposits for three randomly selected months. Based on this comparison, it appears that all collections entered in the computer system were properly deposited in the Utility Fund bank account.

##### Status of FOIA Request for City Records

A Freedom of Information Act (FOIA) request for City records was made on May 12, 2023. According to the requestor, the documentation provided by the City was incomplete, and subsequent requests for the remaining records were ignored. The requestor filed a civil case in

Woodruff County Circuit Court (74CV-23-34) on June 9, 2023, due to the City's noncompliance with the FOIA request. According to the requestor and a Council member, the City agreed to pay the requestor \$1,000 for attorney fees. Subsequently, the parties agreed to settle the case, which was dismissed with prejudice on September 19, 2023.

#### Review of Issues Noted at Public Meetings

ALA reviewed the following three issues discussed at an LJAC meeting:

- *Issue #1* – Financial information provided to Council members at monthly meetings.

According to a Council member, financial information had historically not been provided to Council members at monthly meetings; however, this member subsequently stated that information was being provided at more recent meetings. Based on documentation provided by the City, the Council packet for the meeting held in December 2022 contained balance sheets and statements of revenue and expenditures for five funds, utility customer account receivables from 0 to 120 days delinquent, and bank reconciliations and registers for 18 funds. The packet for the meeting held in June 2023 contained balance sheets and statements of revenue and expenditures for five funds and bank reconciliations and registers for 15 funds.

- *Issue #2* – City purchase of an executive chair allegedly costing \$1,254.

ALA staff reviewed the relevant credit card statement and invoice and found that six chairs were purchased at \$209 each, for a total of \$1,254. Based on ALA's sighting of the six chairs, the purchase appears reasonable.

- *Issue #3* – Wages for services performed by a City employee paid to his spouse.

ALA staff review of City records revealed payments totaling \$5,585 and \$528 in 2021 and 2022, respectively, to an employee's spouse for cleaning services without an ordinance, in conflict with Ark. Code Ann. § 14-42-107(b)(1). Furthermore, according to City personnel, (a) the cleaning services were completed by the City employee, not the spouse, and (b) due to federal income restrictions of the employee, Internal Revenue Service (IRS) Form 1099 was issued to the spouse in 2021.

## **RECOMMENDATIONS**

To gain a better understanding of City fiscal matters, ALA staff recommend the Mayor, City officials, and Council review applicable Arkansas laws and ensure adherence to these laws. Specifically,

- Purchases over \$10,000 should be subject to competitive bidding, or bidding should be waived, if applicable.
- Credit card charges should be supported with adequate documentation, including an itemized invoice and a business purpose. Furthermore, the City should develop a policy regarding the use of credit cards.
- All other disbursements should also be supported with adequate documentation, including an itemized invoice and a business purpose.
- Individuals should not be paid for services not rendered.



Additionally, the Council should:

- Establish a written, documented policy regarding extensions of, adjustments to, and write-offs of utility customer accounts.
- Adopt an annual operating budget for the City, by ordinance or resolution. To avoid salary overpayments or spending above authorized amounts, the budget should be periodically reviewed and amended, as necessary.
- Select annually an accounting firm to conduct a financial audit of the City to include the water and sewer system.
- Develop a policy to determine information to be distributed to Council members at meetings.

## MANAGEMENT RESPONSE

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

## SUMMARY

Using the legal criteria discussed in **Appendix A**, ALA staff review of City financial records, primarily on a *test basis*, indicated various improper transactions, lack of annual audits or agreed-upon procedures reports (AUPs), noncompliance with Arkansas Code, and other issues, as listed below:

- Adjustments and write-offs totaling \$167,978 were made to utility customer accounts during the review period, without a documented policy.
- Competitive bids were not solicited or waived for 10 purchases totaling \$335,026, as required by a City ordinance.
- Credit card purchases totaling \$15,203 and checks to City officials, employees, and individuals totaling \$10,376 did not have adequate supporting documentation or a documented business purpose.
- The Mayor received salary payments totaling \$6,672 in excess of approved amounts over a three-year period, and the City also paid \$4,239 more than the approved amount to the Assistant to the Mayor/City Clerk in 2022.
- An annual operating budget was not adopted, by ordinance or resolution.
- The Council did not timely select an accounting firm to complete the financial audits of the City for the six calendar years ended December 31, 2022, nor did the City obtain annual audits or AUPs within one year of the fiscal year-end for its water and sewer system.
- The City paid \$5,585 and \$528 in 2021 and 2022, respectively, to an employee's spouse for cleaning services without an ordinance, in conflict with Ark. Code Ann. § 14-42-107(b)(1). According to City personnel, (a) the cleaning services were completed by the City employee, not the spouse, and (b) due to federal income restrictions of the employee, the IRS Form 1099 was issued to the spouse in 2021.

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

## **Appendix A**

### **Applicable Arkansas Code, Arkansas Constitution, and Attorney General Opinions**

#### **Use of Public Funds**

Ark. Const. art. 12, § 5(a), states, “No county, city, town or other municipal corporation, shall become a stockholder in any company, association, or corporation; or obtain or appropriate money for, or loan its credit to, any corporation, association, institution or individual.” The Attorney General maintained the following in Op. Att’y Gen. no. 91-410:

“[Regarding] city expenditures, at least in cities of the first class, A.C.A. § 14-58-303, which gives the mayor the authority to make purchases of all supplies, apparatus, equipment, materials and other things, requires that these things be for a ‘public purpose’ and be necessary to carry out any work or undertaking of a ‘public nature.’ Again, although cities have been granted extensive authority over their ‘municipal affairs’ by virtue of the ‘Home Rule Act’ (A.C.A. § 14-43-601 - 610), their exercise of this authority cannot be contrary to state law or constitutional principles.”

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>1</sup> Finally, the Attorney General noted in Op. Att’y Gen. no. 2012-094 that “the public benefit attending any expenditure of public funds must be clear and direct, with any private benefit being merely incidental . . . .”

#### **Prohibited Actions by Municipal Officials or Employees**

Ark. Code. Ann. § 14-42-108(a)(1) states, “It is unlawful for any official or employee of any municipal corporation of this state to receive or accept any water, gas, electric current, or other article or service from the municipal corporation, or any public utility operating therein, without paying for it at the same rate and in the same manner that the general public in the municipal corporation pays therefor.” In addition, Ark. Code. Ann. § 14-42-108(b)(1) states, “It is unlawful for any city official or employee of any municipal corporation in this state to furnish or give to any person, concerns, or corporations any property belonging to the municipal corporation, or service from any public utility owned or operated by the municipal corporation, unless payment is made therefor to the municipal corporation at the usual and regular rates, and in the usual manner, except as provided in subsection (a) of this section.” Lastly, the Attorney General noted in Op. Att’y Gen. no. 89-316 that “the statute prohibits any city official from giving away free service from a municipality owned or operated utility . . . to any ‘persons, concerns, or corporations’. It is my opinion that this terminology is broad enough to include prospective recipients such as school districts, counties, and other cities.”

#### **Audit Requirements**

Ark. Code Ann. § 14-58-101 indicates that the audit or agreed-upon procedures engagement shall be conducted by ALA or by a certified public accountant selected by a city’s governing body.

Ark. Code Ann. § 14-234-119 requires a city to obtain an annual audit or agreed-upon procedures and compilation report for its water and sewer system within one year following the system’s fiscal year-end.

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<sup>1</sup>See *Chandler v. Board of Trustees*, 236 Ark. 256, 258, 365 S.W.2d 447, 448-49 (1963).



## **Purchases and Contracts**

Ark. Code. Ann. § 14-58-303(a) provides that “In a city of the first class . . . the mayor or the mayor’s duly authorized representative shall have exclusive power and responsibility to make purchases of all supplies, apparatus, equipment, materials, and other things requisite for public purposes in and for the city and to make all necessary contracts for work or labor to be done or material or other necessary things to be furnished for the benefit of the city, or in carrying out any work or undertaking of a public nature in the city.” Ark. Code. Ann. § 14-58-303(b) provides that the governing body of a city of the first class shall provide by ordinance the procedure for all purchases that do not exceed \$35,000. Under this provision, the Council adopted City of Augusta Ordinance no. 423 (October 6, 1997), which authorized the Mayor to approve purchases less than \$10,000, without engaging in competitive bidding.

## **Budget**

Ark. Code Ann. §§ 14-58-201 – 14-58-202 prescribe the process for a city to adopt an operating budget. First, the mayor is required to submit to the council, by December 1, a proposed budget for city operations for the following year. Then, the council is required to adopt a budget by ordinance or resolution on or before February 1.

## **Internal Controls**

Ark. Code Ann. § 14-59-105 requires that checks be signed by two authorized disbursing officers and stipulates that city disbursements have adequate supporting documentation. Ark. Code Ann. § 14-59-108 requires that bank accounts be reconciled monthly and the bank account reconciliation be reconciled by someone other than the preparer.

## **Interest in Contracts**

Ark. Code Ann. § 14-42-107(b)(1) indicates that council members, officials, or municipal employees shall not be interested, directly or indirectly, in the profits of any contract for furnishing supplies, equipment, or services to the municipality unless the governing body of the city has enacted an ordinance specifically permitting council members, officials, or municipal employees to conduct business with the city and prescribing the extent of this authority.

## Appendix B

### Management Response

Appendix B  
Management Response

City of Augusta

#### 1. Questionable Adjustments and Write-Offs to Utility Customer Accounts

- (a) We will have better documentation for adjustments specifically noting if water leak, gas leak, miss-read meter, etc. We will require all residents to have a garden meter to insure more accurate account of water/sewer usage.
- (b) No bills are ever completely written off, any outstanding account (death, moved, etc.) are placed in a binder to be kept as dormant accounts. No accounts are just written off completely.
- (c) All adjustments, regardless of my daughter or not, were from, water leaks, etc.
- (d) During Covid there were lots of extensions due to miss-handling of government handouts for utilities, CRDC, and other agencies that were paying bills, there were always delays.

We will adopt policies to adhere to these issues.

#### 2. Purchases Requiring Competitive Bids

- (a) \$252,400 Tornado clean-up – The council was aware that we were using these vendors, one vendor was suggested by a council member.
- (b) \$45,251 council met and approved this cleanup for Courtroom flooding.
- (c) \$21,750 this Recycling Center project was done in several different stages for installation of a baler. It was not one job, it was finished the incorrect way and had to be redone.
- (d) \$15,625 Grant was used to fix Wood Chipper, replaced engine.

#### 3. Credit Card Purchases

Lodging was used for employee's attending schools, and conferences, which include restaurant charges, other food purchases at restaurants were due to employee functions in office. Clothing provided for additional uniforms for workers. The Pay Pal usage was due to employee needing electrical procedure manual. Convenience store purchases was for Sanitation Department purchasing the DEF Supplement for diesel engine. The Miscellaneous items was purchased for usage in office during Covid.

We will adopt policies to adhere to these issues. More documentation with the receipts that were provided will be required.

4. Other Distributions

Three checks was issued to one individual for Ice and Storm clean-up, and one check was issued for sanitation repair and maintenance. One check was issued to an individual for an advance for recycle maintenance. The three checks issued to mayor was for conference expense, but he did not use. The funds were turned back to bookkeeper. She deposited money back into the General Fund. An employee was issued a check for \$800.00 to be used for Christmas parade. It was approved by council. City Clerk purchased dog food using her credit card, so the city reimbursed her. The bank changed their procedure policies where they started charging us insufficient fund fee's.

We will adopt policies to adhere to these issues. More documentation with the receipts that were provided will be required.

5. Salary Overpayments and Budget Issue

Salary difference for Mayor occurred because he was budgeted for \$30,000, but because he received the 3% annual raise, plus bonus. The salary difference occurred. The City clerk salary difference occurred because she was transferred from District Court to Assistant to the Mayor, but her budgeted salary was not. The budget was not amended to reflect this change. It was a latter move for her. No income difference.

We will adopt policies to adhere to this issued.

6. Lack of Annual Audits or Agreed Upon Procedures Reports

A auditing firm has been selected. The audits are being done.

7. Other Issues

- (a) Utility Customer Account Collections – We are ok!
- (b) Status of FOIA Request for City Records.

After the court appearance on June 9, 2023, Mr. Ballard made agreement with the city attorney, additional info was supplied to Mr. Ballard's after court appearance. The suit was dismissed with prejudice on September 19, 2023 because we supplied info, per our attorney.

8. Review of Issues Noted at Public

Issue #1 – Recommended financial reports are given to council each month (Agenda sent out on Friday night and put in slots. Minutes, plus any other item on agenda and financial s).  
Issue #2 – No Issue  
Issue #3 – The person that cleaned our office was not an employee.

