# *Special Report*

***Arkansas Legislative Audit***

# Review of Selected Policies, Procedures, and Transactions

## Five Regional Solid Waste Management Districts

For the Period July 1, 2019 through December 31, 2020


## INTRODUCTION

This report is issued as required by Ark. Code Ann. § 8-6-704 for Arkansas Legislative Audit (ALA) to review selected policies, procedures, and transactions of Arkansas's regional solid waste management districts (Districts). For this report, ALA randomly selected five Districts in the State to review. The locations of all the Districts are shown in **Exhibit I on page 2**.

## OBJECTIVES

Objectives of this review were to determine if the Districts adhered to laws and regulations pertaining to Districts and their Boards of Directors (Boards); competitive bidding; payroll; landfill use; and transactions involving Board members, administrators, and employees. Other objectives were to assess internal control processes related to cash, revenues, receipting, and disbursements.

## SCOPE AND METHODOLOGY

The review was conducted for the fiscal year ended June 30, 2020, for the Central Arkansas and East Arkansas Districts and for the calendar year ended December 31, 2020, for the Benton County, Saline County, and Northeast Arkansas Districts. For each District randomly selected, ALA staff reviewed minutes of Board meetings; pertinent policies, contracts, bank statements, journal entries, expenditure and payroll records, travel expense reimbursements, and credit card and purchasing card (P-card) payments to vendors; related party transactions; applicable Arkansas Code; and reports issued by private certified public accounting (CPA) firms on the financial statements. In addition, certain internal control procedures were assessed for adequacy, and key personnel were interviewed.

## BACKGROUND

### Establishment of Regional Solid Waste Districts

Act 870 of July 1989 created eight "Regional Solid Waste Planning Boards" in the State, with their duties to include preparation of regional solid waste needs assessments and issuance of "certificates of need" to applicants for solid waste disposal facility permits within their jurisdictions. Act 752 of 1991 renamed the Planning Boards as "Regional Solid Waste Management Districts" and required that each District be governed by a Regional Solid Waste Management Board. This Act also expanded the powers and duties of the Districts and allowed the boundaries of the Districts to be modified. Waste tires, composting, recycling, and hauler licensing requirements were included in the responsibilities added to the Districts as a result of Act 752 of 1991. Currently, the State has 19 Districts, as shown in **Exhibit I on page 2**.

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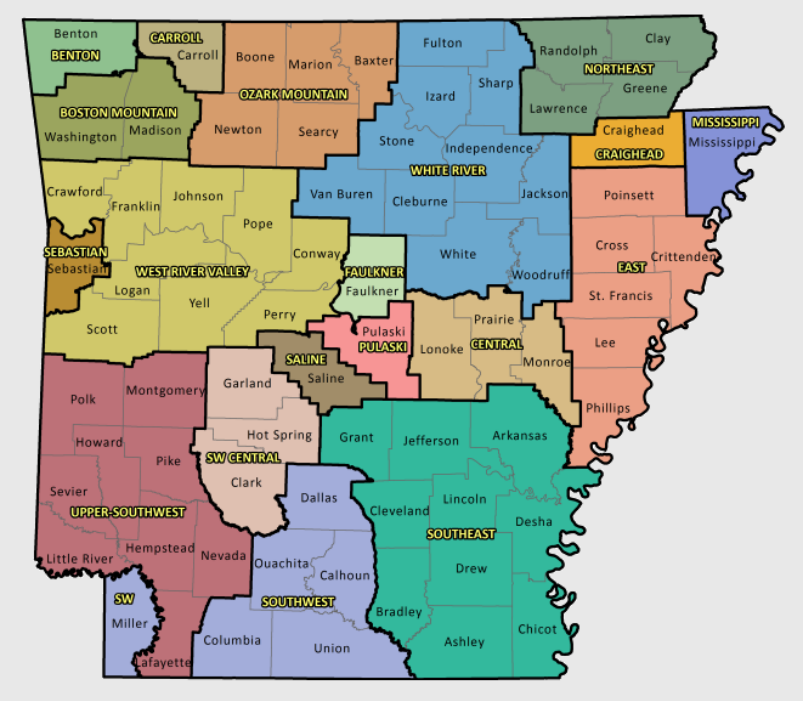
**Exhibit I**

**Arkansas's Regional Solid Waste Management Districts**




**Note:** Carroll County was part of the Ozark Mountain District until October 2019, when it formed its own District.

***Source:*** *Arkansas Department of Energy and Environment website:* https://www.adeq.state.ar.us/ *(unaudited by Arkansas Legislative Audit)*

## Private Audit Reports

Ark. Code Ann. § 8-6-704 requires the Districts to obtain an annual audit of their financial statements from a private certified public accounting (CPA) firm.

The 2020 audit reports for the following Districts contained no findings:

- Benton County (fiscal year ended December 31, 2020).
- Saline County (calendar year ended December 31, 2020).
- East Arkansas (fiscal year ended June 30, 2020) *(included in the annual audit of the East Arkansas Planning and Development District).*

The audit report for the Northeast Arkansas District, for the calendar year ended December 31, 2020, contained one finding relating to lack of segregation of financial accounting duties due to limited resources. The Northeast Arkansas District responded that accounting duties will be segregated to the extent possible with current staffing levels.

The audit report for the Central Arkansas District *(included in the annual audit of the Central Arkansas Planning and Development District),* for the year ended June 30, 2020, contained one material weakness finding related to lack of internal controls resulting in a material misstatement to the financial statements. The Central Arkansas District responded that management will work to ensure proper policies and procedures are established and followed, and management will ensure all adjusting journal entries are posted in the correct period.

# RESULTS OF REVIEW

The sections below provide brief background information for each of the five Districts randomly selected for review, as well as reportable findings. Finding 1 for the Central District was referred to the Seventeenth Judicial District Prosecuting Attorney for further review, as required by Ark. Code Ann. § 10-4-419. **Exhibit II** provides a summary of the findings of both private CPA firms and ALA for all five Districts reviewed.

**Exhibit II**

**Summary of Findings for Regional Solid Waste Management Districts**
**Regular Procedures Applicable to the Five Districts Selected for Review**

| | Private Audit Findings **(Note 1)** | | Arkansas Legislative Audit (ALA) Findings | | | |
|---|---|---|---|---|---|---|
| Regional Solid Waste Management District | Lack of Segregation of Duties | Lack of Internal Controls - Material Misstatement | Related Party Transactions **(Note 2)** | Violations of Arkansas Code **(Note 3)** | Prenumbered Receipts not Issued | Payroll Issues |
| Benton County | | | | ✓ | ✓ | ✓ |
| Northeast | ✓ | | | | | ✓ |
| Saline County | | | | ✓ | ✓ | |
| East | | | | ✓ | | |
| Central | | ✓ | ✓ | ✓ | ✓ | |

**Note 1:** As noted on page 2 of the report, the audit reports for the Districts were completed for fiscal years ending June 30, 2020, and December 31, 2020, as well as for calendar year ended December 31, 2020, depending on the District.
**Note 2:** This finding was referred to the Seventeenth Judicial District Prosecuting Attorney.
**Note 3:** These findings involve noncompliance with Arkansas Code sections related to the composition of District Boards of Directors, lack of documentation of audit report review in Board meeting minutes, audit reports not filed with ALA, and competitive bids not solicited.

***Source:*** *Reports from District audits conducted by private certified public accounting firms (unaudited by Arkansas Legislative Audit) and Arkansas Legislative Audit review*

## Benton County Regional Solid Waste Management District (Benton County District)

### Board Composition

The Benton County District provides services to Benton County and the cities within it. The Board is comprised of the Benton County Judge and the Mayors of Bella Vista, Bentonville, Cave Springs, Centerton, Gentry, Gravette, Little Flock, Lowell, Pea Ridge, Rogers, and Siloam Springs. The Benton County District operates as an independent entity with its own management and employees.

### Sources and Uses of Funds

The Benton County District received several types of revenue, including grants for recycling, e-waste, and waste tires; proceeds from the sale of recyclables; per capita fees from participating entities; rental income; hauler license fees; a waste assessment fee of $1.50 per ton of waste hauled from Benton County; and charges for services related to the disposal of waste from citizens, which was collected at the various transfer stations in the District. The District directly operates recycling and waste disposal programs and pays expenditures associated with these programs, including salaries and wages, employee benefits, recycling and waste disposal program costs, and other related expenditures.

## Findings

***Finding 1:*** In 2020, the Benton County District was assessed and paid penalties and interest totaling $5,628, related to late filings and filing errors, to the Internal Revenue Service (IRS) and the Arkansas Public Employees Retirement System (APERS).

***Management Response:*** *The District experienced a significant lack of operation staffing for many months, in 2020, due to the COVID-19 pandemic. This unfortunately resulted in all administrative personnel working in operations full-time for several months, creating a significant backlog in many administrative functions, including accounting activities. This issue contributed to the late filings and filing errors. The District reassigned duties and made staffing changes in February 2022, which has completely eliminated instances of late reporting and payment of withholding remittances.*

***Finding 2:*** Competitive bids were not solicited for cost of disposal of household hazardous waste, disposal of electronic waste, and rental of trailers to haul waste in the amounts of $40,511, $68,004, and $93,148, respectively, in noncompliance with Ark. Code Ann. §§ 8-6-704, 14-22-104.

***Management Response:*** *The District acknowledges our unintentional failure to comply with state statutes in these instances. When the District initially began the HHW [household hazardous waste] and electronic waste programs several years ago, our annual expenditures to the vendors were not in excess of the amount required to be placed out for bid. As those programs grew and/or these vendors became primary vendors instead of secondary vendors, I [the District Director] failed to put the services out for bid wholly due to and error on my part. In regard to the trailer rental expenditures, we were not aware that temporary leases were required to be bid but now understand that is also required. The District will develop bid specifications and place each of these services out to bid within the next 90 days. In the future, we will monitor on a quarterly basis all previously unbid expenditures to ensure that the threshold for obtaining bids is not exceeded prior to our soliciting competitive bids.*

***Finding 3:*** Accepted accounting practices provide that all income be formally receipted by use of receipts prenumbered by a printer or an electronic receipting system that accomplishes the same purpose as prenumbered receipts. The Benton County District did not issue prenumbered receipts for all income received.

***Management Response:*** *The District partially disputes this finding. The District exclusively used prenumbered paper receipts for all cash and credit card transactions. In addition, we used either prenumbered paper receipts or electronic record of payments created by our accounting software for all checks received. You [ALA staff] have indicated that the District may have been technically deficient in compliance with state law when recording check payments directly into our accounting software for amounts electronically invoiced to a customer. In those transactions, a separate receipt number was not generated by our accounting software. Instead the payment was digitally tied to the electronic invoice number in our accounting software. In regard to printer certificates, I believe that you [ALA staff] indicated that the purchase receipt from the printer which listed the number ranges would meet the requirement. The District has those records. The District will ensure that all income is formally receipted using prenumbered paper receipts or an electronic receipting system. We will confer with the Benton County Comptroller to determine if there is a more acceptable method to receipt check payments received against invoices created by the District. If no other solution can be determined, we will begin creating paper receipts for those payments in addition to recording the payment in our accounting software. Unless otherwise directed by you [ALA staff], we will continue to ensure that the printing vendors for our prenumbered receipts document the receipt number ranges for each order, either by printer's certificate or by recording the number ranges on an order summary.*

## Northeast Arkansas Regional Solid Waste Management District (Northeast Arkansas District)

### Board Composition

The Northeast Arkansas District provides services to Clay, Green, Lawrence, and Randolph Counties. The Board is composed of the County Judge of each county and the Mayor of each city entitled to a representative in the District (i.e., all first-class cities, all cities with a population over 2,000, and any city that holds a position on any board on or after January 1, 2010, within the regional solid waste management district). The District operates as an independent entity with its own management and employees and also owns and operates a Class 1 and Class 4 landfill.

### Sources and Uses of Funds

The Northeast Arkansas District received several types of revenue, including tipping fees charged at the landfill based on cubic yards of waste, grants for recycling, hauler permits, sale of recyclables, and investment income mainly earned from trust funds set aside to provide financial assurance for its landfill closure and postclosure care costs. The District directly maintains and operates its landfill and pays expenditures related to the recycling program.

### Finding

***Finding:*** The Northeast Arkansas District issued checks to cash totaling $13,600 to pay recycling and litter workers for duties performed during 2020. Four of the workers earned amounts exceeding the requirement for issuance of an Internal Revenue Service (IRS) Form 1099. ALA staff recommend the District contact the IRS for guidance on the proper way to compensate these individuals. The District has since ceased this practice.

***Management Response:*** *We will contact a CPA and/or Attorney to make sure we don't have any future findings.*

## Saline County Regional Solid Waste Management District (Saline County District)

### Board Composition

The Saline County District provides services to Saline County and the cities within it. The Board is comprised of the Saline County Judge, the Mayor of Alexander, and representatives from the cities of Benton, Bryant, Shannon Hills, and Haskell. The District operates as an independent entity with its own management and employees.

### Sources and Uses of Funds

The Saline County District received several types of revenue, including grants for recycling and e-waste, hauler permits, landfill coupon sales, and royalty income based on tonnage received at the landfill. In February 2011, the District sold to Republic Services its Class 1 and Class 4 landfill and all assets and properties used in connection with the operation of the landfill. The District directly operates recycling programs and pays expenditures associated with these programs, including salaries and wages, employee benefits, program costs, professional fees, and other related expenditures.

The District is also a party to an Inter-District Waste Tire Management Program Tire Collection and Processing Contract between a waste tire contractor and five Districts. The contract stipulates that the program will be managed by the Pulaski County Regional Solid Waste Management District (Pulaski County District); therefore, all waste tire grant revenues allocated to the Saline County District are deposited directly with the Pulaski County District, which processes the expenditures.

**Findings**

***Finding 1:*** Accepted accounting practices provide that all income be formally receipted by use of receipts prenumbered by a printer or an electronic receipting system that accomplishes the same purpose as prenumbered receipts. The Saline County District did not issue prenumbered receipts for all income received.

***Management Response:*** *The Saline County District will implement the use of prenumbered receipt books that have the Saline County District name printed on them.*

***Finding 2:*** The Saline County District did not file a copy of the private auditor's reports for 2020, 2019, and 2018 with Arkansas Legislative Audit, as required by Ark. Code Ann. § 8-6-704.

***Management Response:*** *A copy of each audit report will be sent to Arkansas Legislative Audit and sent in each year moving forward.*

## East Arkansas Regional Solid Waste Management District (East Arkansas District)

**Board Composition**

The East Arkansas District provides services to Crittenden, Cross, Lee, Phillips, Poinsett, and St. Francis Counties. The Board is composed of the County Judges; Mayors of the cities that are County seats, all cities of the first class, and all cities with a population over 2,000; and the Mayor of Hughes. A majority of the Board members are on the Board of the East Arkansas Planning and Development District (EAPDD), which performs all management and accounting functions since the East Arkansas District has no employees. There is no written contract for services between the District and the EAPDD.

**Sources and Uses of Funds**

The East Arkansas District received several types of revenue, including grants for recycling, e-waste, and waste tires, as well as interest income earned on bank accounts. Payments are made by the District either directly to the vendors for waste tire and recycling program contracts or on a reimbursement basis to the EAPDD.

**Findings**

***Finding 1:*** The composition of the East Arkansas District's Board of Directors appears contrary to Ark. Code Ann. § 8-6-703, which states, in part, "…Each board shall be composed of…All cities of the first class…All cities with a population over two thousand (2000)…[and] The largest city of each county…." The District's Board of Directors includes the Mayor of a city that does not meet any of these criteria. We recommend the District consult legal counsel to determine a resolution in this matter.

***Management Response:*** *Our belief is that the City of Hughes was on the EARSWMD [East Arkansas Regional Solid Waste Management District] Board as of January 2010. We are in touch with legal counsel and are working to determine next steps.*

***Finding 2:*** Competitive bids were not solicited for cost of disposal of waste tires in the amount of $249,910, in noncompliance with Ark. Code Ann. §§ 8-6-704, 14-22-104.

***Management Response:*** *Our contracted waste tire contractor breached its contract and stopped picking up tires, creating an emergency situation, so we contacted the only other bidder who bid for the contracted services.*

***Finding 3:*** The East Arkansas District's bank accounts were in the name of and under the TIN/EIN of the EAPDD. As a result, grant funds paid by the State for solid waste programs were in the name of EAPDD. We recommend the District contact legal counsel in regard to these matters.

***Management Response:*** *We have contacted our legal counsel, District CPA, and Auditor regarding the appropriate steps to take to resolve this issue.*

## Central Arkansas Regional Solid Waste Management District (Central Arkansas District)

### Board Composition

The Central Arkansas District provides services to Lonoke, Monroe, and Prairie Counties. The Board is composed of the County Judges, as well as the Mayor of each city entitled to a representative in the District (i.e., all first-class cities, all cities with a population over 2,000, and the largest city of each county) or their designee. A portion of the Board members are on the Board of the Central Arkansas Planning and Development District (CAPDD), which performs all management and accounting functions since the Central Arkansas District has no employees. There is no written contract for services between the District and CAPDD.

### Sources and Uses of Funds

The Central Arkansas District received several types of revenue, including grants for waste tires, recycling, and e-waste; license fees from haulers; permits; a host fee of $1.00 per ton of waste collected either inside or outside the District and disposed of within the District; and a host fee of $2.00 per ton of waste collected inside the District and disposed of outside the District. The Central Arkansas District operates recycling and waste disposal programs and pays expenditures associated with these programs.

The Central Arkansas District is also a party to an Inter-District Waste Tire Management Program Tire Collection and Processing Contract between a waste tire contractor and five Districts. The contract stipulates that the program will be managed by the Pulaski County District; therefore, all waste tire grant revenues allocated to the Central Arkansas District are deposited directly with the Pulaski County District, which processes the expenditures.

### Findings

***Finding 1:*** The Central Arkansas District conducted business totaling $1,287 with a company that a Board member (i.e., the Mayor of Des Arc) owned, in noncompliance with Ark. Code Ann. § 21-8-1001.

***Management Response:*** *CAPPD agrees with ALA's recommendation that a resolution shall be presented to the Central District's Board for consideration at the next regularly scheduled meeting. In addition CAPDD shall ensure, if a similar situation were to occur, the Central District's Board will be notified as required.*

Finding 1 will be forwarded to the Seventeenth Judicial District Prosecuting Attorney.

***Finding 2:*** The prior-year audit report and findings were not reviewed by the Central Arkansas District's Board, as required by Ark. Code Ann. § 8-6-704.

***Management Response:*** *To ensure compliance, CAPDD has adopted an internal policy requiring that upon receipt of each annual audit report, the completed audit and any findings and recommendations shall be presented and discussed at the next scheduled Central District Board meeting and recorded within its minutes.*

***Finding 3:*** Accepted accounting practices provide that all income be formally receipted by use of receipts prenumbered by a printer or an electronic receipting system that accomplishes the same purpose as prenumbered receipts. The Central Arkansas District did not issue prenumbered receipts for all income received.

***Management Response:*** *To correct this oversight, CAPDD has adopted an internal policy of using prenumbered receipts for all income received and has implemented the proper internal controls to comport with the recommendation made by ALA in connection with this finding.*

***Finding 4:*** The composition of the Central Arkansas District's Board of Directors appears contrary to Ark. Code Ann. § 8-6-703, which states, in part, "…Each board shall be composed of representatives of…All cities with population over two thousand (2,000) according to the most recent federal decennial census…." The City of Austin has a population over 2,000 but does not have representation on the District's Board of Directors.

***Management Response:*** *We will add Austin to the Board now that they have had an increase in their population.*

## SUMMARY

ALA staff review of five randomly-selected regional solid waste districts revealed internal control deficiencies, payroll issues, and various violations of Arkansas Code, as summarized in **Exhibit II on page 3.**

One finding for the Central Arkansas District regarding related party transactions was referred to the Seventeenth Judicial District Prosecuting Attorney for further review, as required by Ark. Code Ann. § 10-4-419.