

**Sensitive Payments Review
As of June 30, 2007**

**City of Tulsa
Internal Auditing
October 2008**



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A handwritten signature in black ink that reads 'Ron Maxwell'.

Ron Maxwell, CIA, CFE
Chief Internal Auditor

A handwritten signature in black ink that reads 'Phil Wood'.

Phil Wood, CIA, CFA
City Auditor

AUDIT TEAM:

Cathy Criswell, CIA, CPA
Tina McIntosh, Auditor-in-Charge

INTRODUCTION

Sensitive payments are transactions with a possibility for officials, top management, and certain employees to receive inappropriate benefit due to their position of influence. Internal Auditing performs an annual review of sensitive payments, as recommended by the United States Government Accountability Office (GAO). The GAO defines the following sensitive payments categories:

- Executive compensation
- Travel
- Official entertainment funds
- Unvouchered expenditures
- Contracting and consulting services
- Speaking honoraria and gifts
- Executive perquisites

It is important for organizations to effectively communicate criteria to enable officials and employees to determine appropriate expenditures. Well-developed policies and procedures can provide guidelines on proper action to be taken. Approval and proper documentation of transactions also help prevent inappropriate expenditures. A strong system of internal control should be established to ensure compliance with established rules.

Because government executives are vested with the public trust and hold a high degree of decision-making authority, they are subject to the scrutiny and criticism of the public and media. Such scrutiny is particularly intense in the event of any impropriety or conflict of interest, whether real or perceived. Although dollar amounts involved would not usually have a material effect on financial statements, improper payments may result in significant criticism of the executives and the governmental entity. Disclosure forms provide an important control in reviewing the propriety of sensitive payments.

The public is very sensitive to undue benefits obtained by government employees and any indications of irregularities and waste in spending. Therefore, a review of sensitive payments must go beyond the validity and adequacy of documentation to consider public interest and reaction to public expenditures.

DESCRIPTION OF AUDIT PROJECT

SCOPE

This project included a review of transactions related to executive operations in the areas of compensation, travel, official entertainment, unvouchered expenditures, contracting and consulting services, speaking honoraria and gifts, and executive perquisites. Ethics and conflicts of interest were also considered for expenditures made in each of the tested areas during fiscal year 2007. Applicable laws, policies and procedures were identified, and an evaluation was made of the related internal control structure.

OBJECTIVES

- Evaluate the adequacy of the system of internal controls over sensitive payments
- Assess compliance with applicable laws, ordinances, policies and procedures regarding sensitive payments
- Determine whether executive expenses are properly authorized and approved
- Determine whether executive expenses are accurately and promptly recorded and reported
- Evaluate corrective action taken on prior year sensitive payments findings

CONCLUSIONS

Based on the results of this audit, it is the overall opinion of Internal Auditing that the system of internal control over sensitive payments is adequate.

AUDIT METHODOLOGY

The audit was conducted in accordance with the Standards for the Professional Practice of Internal Auditing of the Institute of Internal Auditors, and followed the guidelines published by the United States Government Accountability Office for review of sensitive payments. Audit tests were performed as follows:

- ***Executive Compensation*** - A sample of employees was selected to test compensation. Payroll records were examined to confirm the compensation calculation. Executive pay was compared to pay grade limits and reviewed for any bonus or award payments.
- ***Travel*** - A sample of travel records for trips taken by elected officials, employees, and board members was selected for testing. Tests were made to determine whether travel costs were proper and in compliance with ordinances, policies and procedures.

- **Official Entertainment Funds** - A sample of transactions was tested to determine compliance with entertainment policies and procedures. Documentation for each item was examined for proper authorization and approval, accurate calculation, and reasonableness.
- **Unvouchered Expenditures** - These funds exist in some governmental entities to be used at the discretion of governmental officials to further the entity's mission, but do not require the same level of documentation as a typical transaction. Internal Auditing noted no unvouchered expenditures for City of Tulsa transactions.
- **Contract and Consulting Services** - Policies and procedures for controlling conflicts of interest in contracts were identified and evaluated. Disclosures were reviewed for potential conflicts of interest in contracting and other areas. Public-private partnerships were reviewed for propriety and compliance with City policy.
- **Speaking Honoraria and Gifts** - The adequacy of policies and procedures related to speaking honoraria and gifts was evaluated. Each disclosure of speaking honoraria or gifts was considered for potential conflict of interest.
- **Executive Perquisites** - An evaluation was made of whether city executives receive perquisites and of related policies and procedures. Accounting records were reviewed to determine whether any club memberships had been paid. Controls related to employee parking were reviewed and evaluated.
- **Ethics and Conflicts of Interest** - Policies and procedures were reviewed to determine how ethics and conflicts of interest were addressed and whether prescriptions exist for resolution of conflicts of interest.
- **Related Parties** - Related parties were identified from disclosures and transactions were evaluated to determine whether they were at arm's length.
- **Follow-up Review** – Recommendations from previous Sensitive Payments Reviews were evaluated to determine whether corrective action was completed and effective.

IMPROVEMENT OPPORTUNITY I

MONITORING OF PUBLIC-PRIVATE PARTNERSHIPS

Internal Auditing first reported the following in June 2007:

SUMMARY

In the past, Internal Auditing noted:

- An employee who had monitoring responsibility had resigned and no one had been designated to continue monitoring.
- An employee had participated on a partner's board of directors as a voting member
- An employee was designated as a partner's executive director.
- Two partners had continued operating in City facilities without current contracts. Both partners owed back bills. City staff was not monitoring the sites.

All of the situations above have been resolved; however, no changes have been made to administration and monitoring of public-private partnerships to prevent recurrence of similar situations. Significant risks related to improper management of public-private partnerships include violation of the Oklahoma Constitution, increased liability to the city, increased expenses, and activities that could bring discredit to the City.

RECOMMENDATION

Management should establish a system to ensure contracts with public-private partnerships are kept current, and all partners are appropriately monitored. A central record should be maintained listing all public-private partnerships and the City employees designated to monitor them. Responsibility should be assigned to review and update this list periodically.

RESPONSE

We agree with the recommendation. It will be necessary to differentiate public-private partnership contracts from other city contracts. We are working on a definition, and welcome Internal Auditing's input on that definition. Once the definition is determined, the Mayor will appoint a staff member to prepare a central record, which will be updated annually. Target date for completion is March 31, 2009.

IMPROVEMENT OPPORTUNITY II

CONFLICT OF INTEREST DISCLOSURES ARE NOT REQUIRED BEFORE APPOINTMENT OF AUTHORITY, BOARD, AND COMMITTEE NOMINEES

Internal Auditing first reported the following in June 2007:

SUMMARY

Potential nominees are required by the Mayor to fill out the Authorities, Boards and Commissions Application form. The form requires contact information and references. However, the form does not request a statement of potential conflicts of interest.

City Council Rules & Order of Business, Section VI, states, "Confirmation of Mayoral Appointments requires a copy of the nominee's resume, and a statement of whom the appointee is replacing or succeeding, the appointment term, and any other pertinent information." City Council does not require a statement of potential conflicts of interest. Some appointees disclose conflicts, but this is voluntary, not a requirement.

There is no requirement for nominees to make disclosures before appointment. Without prior disclosure, the likelihood of appointing an individual with a conflict of interest increases. Depending on the nature of possible conflicts of interest, a board member may have to recuse from participation in a number of issues; thereby, making the board member ineffective. If a board member had an undisclosed conflict and continued to participate in related business, this could make board action ineffective or even illegal.

RECOMMENDATION

Management should implement a policy requiring a conflict of interest disclosure statement from an appointee as a part of the information gathered prior to consideration for an appointment.

RESPONSE

We agree with the facts in this improvement opportunity, but plan to implement a different corrective action than the one recommended by Internal Auditing. We plan to provide all potential appointees with a copy of the Ethics Ordinance and a letter that will ask them to review its requirements. The letter will also emphasize the ordinance's requirements for ABC members to recuse themselves when circumstances require it. We will address any conflicts of interest disclosed following the procedures outlined in our responses to Improvement Opportunity III and VI below. Target date for completion is March 31, 2009.

IMPROVEMENT OPPORTUNITY III

THERE IS NO SPECIFIC GUIDANCE ON THE FORM OF ETHICS DISCLOSURES AND DOCUMENTATION OF INVESTIGATIONS

Internal Auditing first reported the following in June 2007:

SUMMARY

City Officials, as defined in the Ethics Ordinance, are required to disclose actual and possible conflicts of interest. City Officials may make disclosures by filing a written statement with the City Clerk. City Officials submit disclosures to the City Clerk in varying written form. Some communications disclose what the potential conflict is and others state only that an actual or possible conflict has occurred. City Council has designed a disclosure form City Councilors may use for making disclosures. This form is also submitted to the City Clerk. The Ethics Ordinance gives no formal guidance regarding what form written statements of conflicts should take. Due to the lack of formal guidance, risk increases that disclosures will be incomplete.

The Ethics Ordinance does not require periodic (annual) filing of conflicts of interest disclosures. By not requiring periodic filing, the risk increases that a City Official will violate the Ethics Ordinance and not make full or timely disclosures.

The City Clerk becomes aware of conflicts of interest if a City Official voluntarily submits a disclosure. The City Clerk then reviews the disclosure to determine whether it should be forwarded to the appropriate Appointing Authority. When the disclosure is forwarded, the City Clerk performs no further actions. The Ethics Ordinance does not fix any responsibilities regarding information related to investigation and disposition of ethics disclosures and complaints. The result is that City Clerk files include disclosures and complaints, but do not always include information regarding investigation and disposition.

RECOMMENDATIONS

Management should consider the following:

- Create formal criteria and guidance for what should be included in a disclosure. Management should consider using the same or similar form as the City Council uses
- Send out an annual reminder to all City Officials requesting they update their disclosures
- Document resolution of disclosures and complaints and include documentation in the City Clerk files

RESPONSE

We agree with the recommendations. We plan to generate an annual email that will direct all city officials to review the Ethics Ordinance. The email will include guidance regarding the processing and form for any ethics disclosures. Disclosures and complaints will be resolved in essentially the same way as reports to the City Auditor's

hotline. Summary resolution information will be included in City Clerk documentation. Target date for completion is December 31, 2008.

IMPROVEMENT OPPORTUNITY IV
ETHICS COMMITTEE OPINIONS AND RECOMMENDATIONS ARE NOT
MONITORED TO ENSURE RESOLUTION

Internal Auditing first reported the following in June 2007:

SUMMARY

The Ethics Ordinance creates an Ethics Advisory Committee to receive requests for opinions on ethical issues. Any elected official, Charter division or department head; member of a City of Tulsa Board, Authority, or Committee; or Trustee of a public trust with the City of Tulsa as a beneficiary may submit a request for an opinion. The Ethics Advisory Committee is only permitted to offer opinions, advice or recommendations. The Ethics Advisory Committee does not have the power to adopt, change or enforce the recommended changes in resolving the ethical issues.

If the Ethics Advisory Committee chooses to write an opinion or recommendation, no follow-up on the opinions or recommendations is completed. There is no assurance the issues are resolved. Because of these restrictions placed on the Ethics Advisory Committee, ethical issues may not be properly addressed and conflicts of interest may adversely affect the City.

RECOMMENDATION

Management should consider requesting a change in the Ethics Ordinance to broaden the duties of the Ethics Advisory Committee from an advisory committee to an oversight body. Alternatively, management could establish a separate oversight body.

RESPONSE

We agree with the facts in this improvement opportunity, but have implemented different corrective action than that recommended by Internal Auditing. The Mayor has appointed Amy Polonchek to attend Ethics Advisory Committee meetings. When the committee has an opinion or recommendation that falls under the executive branch, we will assign staff to address it and provide resolution information to the committee.

IMPROVEMENT OPPORTUNITY V

A CITY POLICY FOR PERSONAL PHONE CALLS CONFLICTS WITH ORDINANCE AND DEPARTMENTAL POLICY.

Internal Auditing first reported the following in June 2007:

SUMMARY

City of Tulsa's Personnel Policies and Procedures state, "While an employee is on City travel, business long distance telephone charges and limited personal calls (2 calls per day of 15 minutes or less) may be reimbursed in accordance with current Accounts Payable Policies and Procedures." Regarding reimbursement of travel expenses, Tulsa Revised Ordinance Number 20892 states, "Only business telephone charges will be reimbursed." Likewise, Accounts Payable's Policies and Procedures dated May 31, 2005, direct that personal calls are not reimbursable travel expenses. Instructions for travel expense reimbursement in Accounts Payable's Policies and Procedures effective July 1, 2006, state that personal calls and internet use are not to be reimbursed. The financial impact is negligible, but employees could be confused by conflicting policies.

RECOMMENDATION

Management should update Personnel Policies and Procedures to conform to authoritative guidelines and be consistent with departmental policies.

RESPONSE

We agree with the recommendation. The Human Resources Department has created a new position for policy development. When hired, this person will be assigned responsibility to update this policy. Target date for completion is June 30, 2009.

IMPROVEMENT OPPORTUNITY VI
MONITORING OF FILINGS REQUIRED BY OKLAHOMA STATUTE ARE NOT PERFORMED.

Internal Auditing first reported the following in June 2007:

SUMMARY

Oklahoma Statutes Title 60, Section 178.8, requires members of public trusts to fully and publicly disclose certain types of interests in the public trust. This section defines what transactions are considered a conflict of interest and must be disclosed. The statute requires conflict of interest forms be filed with the Oklahoma Secretary of State when such interests exist. In the past, some disclosures have not been made on a timely basis. When an appropriate disclosure by the trustee is not made, the trustee is subject to removal and the contract with the trustee is not enforceable.

RECOMMENDATION

Management should establish a monitoring system for each trust affected by Title 60, Section 178.8. The tracking system should be designed to inform management when reportable conditions exist and to file the necessary reports. Alternatively, management may elect to require all Title 60 trusts to make the semi-annual filings whether there are conflicts to report or not.

RESPONSE

We agree with the recommendation and will assign a staff member to monitor Title 60 filings. Target date for completion is December 31, 2008.

IMPROVEMENT OPPORTUNITY VII
POLICIES AND PROCEDURES ARE NOT ADEQUATELY COMMUNICATED

Internal Auditing first reported the following in June 2003:

SUMMARY

There is no single source an employee can look to for guidance in appropriate behavior. Policies and procedures related to employee behavior are scattered throughout a number of documents, including policies and procedures, ordinances, executive orders and state statutes. While all the documents are available to anyone who asks for them, not every employee is aware of where to look for them or that they exist. To get complete information, an employee would need to access numerous documents. Some of the language in these documents is difficult to understand.

The Human Resources Department maintains the Personnel Policies and Procedures manual, which contains most of the guidance information. This document is available on paper or through the city's Intranet site. Neither of these media is readily accessible to every city employee. Paper manuals are widely distributed and may not be kept complete and current. The manual on the Intranet is complicated to use because it is divided into sections and isn't searchable.

RECOMMENDATION

A single document should be developed that includes information regarding expected employee conduct. This document should be written in language that is concise and clear. It should be distributed to every city employee and elected official. Consideration should be given to making the city's policies available on the Internet.

Internal Auditing noted the Ethics Advisory Committee is working on a draft employee handbook. We support this effort.

RESPONSE

The Office of the Mayor also supports the Ethics Advisory Committee's effort. We have provided input on the handbook and will continue to interact with the committee until its completion.

IMPROVEMENT OPPORTUNITY VIII

POLICIES AND PROCEDURES DO NOT ADDRESS SOME ISSUES RELATED TO ETHICS AND CONFLICT OF INTEREST

Internal Auditing first reported the following in November 1991:

SUMMARY

The Personnel Policies and Procedures Manual includes rules on second employment in jobs other than the employee's City job. However, policies do not require specific approval for outside employment that may:

- result in a conflict of interest,
- tend to impair the employee's mental or physical capability to perform city duties,
- be construed by the public to be official acts of the city, or
- involve the use of information gained through city duties and used to the detriment of the city or public interest

RECOMMENDATION

Management should add the above listed items to the policy on second employment.

RESPONSE

We agree with the recommendation. The Human Resources Department has created a new position for policy development. When hired, this person will be assigned responsibility to update this policy. Target date for completion is June 30, 2009.

IMPROVEMENT OPPORTUNITY IX
POLICIES AND PROCEDURES DO NOT INCLUDE GUIDELINES ON GIVING OF GIFTS

Internal Auditing first reported the following in November 1991:

SUMMARY

While there are several policies and procedures relating to accepting gifts, there are none that address giving gifts on the city's behalf. The policy in the Personnel Policies and Procedures Manual (section 226) on Gifts, Donations, Honoraria and Other Compensation was revised January 1, 1999. The revisions improved the policies regarding receiving of gifts. However, the revisions did not address giving of gifts.

Internal Auditing noted in this Sensitive Payments Review that \$89.95 was spent on gift cards that were provided as employee of the month incentives. There are no policies to use as criteria to determine if this is a proper expenditure.

RECOMMENDATION

A policy and procedures on giving of gifts on the city's behalf should be implemented. Specific guidelines are necessary so employees will take appropriate action.

RESPONSE

We agree with the recommendation. The Human Resources Department has created a new position for policy development. When hired, this person will be assigned responsibility to update this policy. Target for completion is June 30, 2009.

REPORT DISTRIBUTION

Mayor
Councilor, District 1
Councilor, District 2
Councilor, District 3
Councilor, District 4
Councilor, District 5
Councilor, District 6
Councilor, District 7
Councilor, District 8
Councilor, District 9
City Auditor
Airport Director/TAA
Budget & Capital Planning Division Manager
Chief Technology Officer
Chief Risk Officer
City Attorney
Communications
Controller
Council Administrator
Council Secretary
Development Services Director
Director of Community Development & Education Initiatives
Director of Economic Development
Director of Operations
Engineering Services, Deputy Director
Environmental Operations, Deputy Director
Equipment Management Director
Finance Director
Fire Chief
General Counsel
Gilcrease Museum Director
Grants Administration
Human Resources Director
Human Rights Director
Information Technology Director
Mayor's Chief of Staff
Municipal Court Administrator
Neighborhood Inspections Director
Park & Recreation Director
Performing Arts Center Director
Police Chief
Public Facilities, Deputy Director
Public Works, Assistant Director
Purchasing Division Manager
Real Estate Management Director
Senior Administrative Services Officer
Special Advisor to the Mayor on Urban Planning
Treasury Division Manager
Working in Neighborhoods (WIN)
Workforce Development Director
Park and Recreation Board Chair
Airport Authority Chairman
Civil Service Commission Chairman
EMSA Chairman
Metropolitan Tulsa Transit Authority Chairman
Sales Tax Overview Committee Chairman
TARE Chairman
TDA Chairman
TPFA Chairman
TMUA Chairman
TPA Chairman
External Auditor
Mayor's Audit Committee
Ethics Advisory Committee