Claire McCaskill

Missouri State Auditor

May 2005

City of O'Fallon, Missouri

Year Ended December 31, 2003

Office Of The
State Auditor Of Missouri
Claire McCaskill

May 2005

YELLOW SHEET

The following problems were discovered as a result of an audit conducted by our office of the City of O'Fallon, Missouri.

Salary incentives totaling $230,500 and $129,750 were paid to various City of O'Fallon executive team members and other staff during 2003 and 2002, respectively. In 2003, these incentives ranged from $2,500 to $35,000. The incentive program was not a part of the city's personnel policy and there was no documentation that the Board approved the amounts, the tasks involved, or the time required. Many of the incentives appeared to be for tasks that may have been completed by respective positions regardless of the additional compensation. In 2003, the city contracted with an outside firm at a cost of $32,000 to perform a salary survey of positions in similar communities. In 2004, the city dropped the incentive plan; however, instead of basing the new salaries on the survey results, salaries were increased in the amount of the 2003 incentives to form new base salaries. Some of these salaries significantly exceed the survey data.

In January 2004, the former mayor, former city administrator, and seven board members along with their spouses traveled to Ireland with six business representatives and guests to try to establish a "sister city program". The trip was funded by donations from local businesses. In September 2004, a reconciliation of trip expenditures totaling $40,984 and donations received totaling $44,000 was completed. There is no accounting for the remaining $3,016, and $300 in costs did not have supporting receipts or invoices. There was no documentation of any formal reporting on the results of the trip in a board meeting and the city has not entered into a "sister city program". Additionally, several items were purchased by the city for each member of the group, including passport holders, luggage tags, and embroidered attaché cases, which do not appear to be prudent and reasonable expenditures.

In June 2003, the former mayor attended a three day National Mayors' conference in Denver, Colorado. The total cost for this trip was approximately $3,300. The mayor rented a van and drove to the conference along with members of his family, incurring costs of over $1,000 in van rental, fuel and extra meal and hotel costs. At the conference, the mayor selected an executive suite at a rate of $255, approximately $70 per night more than the lowest available in that particular hotel and approximately twice as much as the lowest cost alternative available. Additionally, several side trips were made outside the Denver area that were not a part of the conference itinerary.

The former city administrator attended a five day seminar at the Wharton School in Pennsylvania at a cost of $4,950 for the seminar and $610 for airfare, and additional hotel and meals. There was no documentation indicating the board approved this training prior

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to incurring the expense and without documented approval by someone in a supervisory role, it is unclear if costly trips such as this are necessary or beneficial to the city.

The city does not have a written policy or established guidelines for the purchase and sale of real estate and has sold property without advertising for bids, purchased property without documentation that an appraisal was performed, and used services of a real estate agent that did not appear necessary. The city sold property to a developer in June 1999 for $275,000 and required in the sales contract that the old building be demolished and a masonry retail/office structure be built in its place within six months of site plan approval; however, five years have passed and the new building has not been constructed as required and the owner has placed the property for sale at an asking price of approximately $600,000. The city should take appropriate action to attempt to enforce the terms of the real estate contract.

Credit card purchases did not have adequate supporting documentation. Total credit card purchases for fiscal year 2003 were approximately $83,000. Several of the credit card receipts indicated the total amount paid but included no detail or explanation of what was purchased, while other purchases were not accompanied by any type of receipt.

The city's total financial obligations have increased from $88 million to $152 million or 72 percent from 1999 to 2003. A large part of this debt is certificates of participation (COPS) and revenue bonds which are not included in the various ratios used by the city to help ensure financial stability. Including this other debt in monitoring the various debt ratios would help ensure the city is maintaining adequate financial stability.

Of the 15 executive team members assigned a vehicle, 13 are assigned trucks or sport utility vehicles, most of which are four wheel drive and/or heavy duty models. It is questionable as to whether these types of vehicles are necessary to fulfill the duties of these employees. Additionally, three employees assigned trucks commute roundtrip approximately 20, 40 and 60 miles per day, respectively, and over 50 percent of the mileage put on their assigned vehicles is attributed to commuting. The amount of mileage and type of vehicles allowed for commuting these distances appears unreasonable and excessive.

In September 2003, the State Auditor's Office initiated a routine audit of the O'Fallon Municipal Court. Within a few days of starting the audit, the court administrator admitted to the misappropriation of funds. The city decided to contract with an independent audit firm to review the court records and procedures to determine the amount of loss and how it had occurred. At that time, due to the pending petition audit, the State Auditor's Office halted its audit of the municipal court. The independent audit firm reported in January 2004, that approximately $350,000 appears to have been misappropriated from the municipal court from 1997 to 2003. The misappropriation appears to have occurred because of a lack of control procedures and segregation of duties. The court administrator was terminated from her position and the city has implemented procedures to prevent such misappropriations in the future.

Also included in the report are recommendations related to attorney costs and billings, stadium and park operations, city vehicles and mileage logs, mobile communications, and public records.

CITY OF O'FALLON, MISSOURI

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CLAIRE C. McCASKILL

Missouri State Auditor

To the Mayor
and
Board of Alderman
City of O'Fallon, Missouri

The State Auditor was petitioned under Section 29.230, RSMo, to audit the city of O'Fallon, Missouri. The city engaged Rubin, Brown, Gornstein and Company LLP, Certified Public Accountants (CPAs), to audit the city's financial statements for the year ended December 31, 2003. To minimize duplication of effort, we reviewed the report and substantiating working papers of the CPA firm. The scope of our audit of the city included, but was not necessarily limited to, the year ended December 31, 2003. The objectives of this audit were to:

1. Perform procedures to evaluate the petitioners' concerns.

2. Review internal controls over significant management and financial functions.

3. Review compliance with certain legal provisions.

To accomplish these objectives, we reviewed minutes of meetings, written policies, financial records, and other pertinent documents; interviewed various personnel of the city, as well as certain external parties; and tested selected transactions. Our methodology included, but was not necessarily limited to, the following:

1. We obtained an understanding of petitioner concerns and performed various procedures to determine their validity and significance.

2. We obtained an understanding of internal controls significant to the audit objectives and considered whether specific controls have been properly designed and placed in operation. However, providing an opinion on internal controls was not an objective of our audit and accordingly, we do not express such an opinion.

3. We obtained an understanding of legal provisions significant to the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract, grant agreement, or other legal provisions could occur.

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Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting significant instances of noncompliance with the provisions. However, providing an opinion on compliance with those provisions was not an objective of our audit and accordingly, we do not express such an opinion.

Our audit was conducted in accordance with applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such procedures as we considered necessary in the circumstances.

The accompanying History, Organization, and Statistical Information is presented for informational purposes. This information was obtained from the city's management and was not subjected to the procedures applied in the audit of the city.

The accompanying Management Advisory Report presents our findings arising from our audit of the City of O'Fallon, Missouri.

Claire McCaskill
State Auditor

December 10, 2004 (fieldwork completion date)

The following auditors participated in the preparation of this report:

Director of Audits:	Thomas J. Kremer, CPA
Audit Manager:	Alice M. Fast, CPA
In-Charge Auditor:	Marty Beck

MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDINGS

1. Personnel

In 2003 the city continued an incentive program that began in 2002. Salary incentives totaling $230,500 and $129,750 were paid to various executive team members and other staff during 2003 and 2002, respectively. In 2004, the city ceased incentive payments; however, the amounts received as incentives for the previous year were added to the individuals' salaries as a pay increase. Incentive amounts paid in 2003 and 2002 are included in the following table.

Title	2003 Amount	2002 Amount
City Administrator	$ 35,000	25,000
Assistant City Administrator	22,000	15,000
City Clerk	13,000	13,000
Director of Economic Development	15,000	14,000
Director of MIS	10,000	10,000
Director of Finance	7,500	7,500
Managing Director of Community Development	15,000	0
Director of Development Services	10,000	0
Chief of Police	15,000	15,000
Managing Director of Administrative Services	13,000	7,500
Managing Director of Parks and Recreation	15,000	15,500
Assistant Director of Economic Development	0	1,750
Director of Human Resources	0	5,500
24 additional management team members each received $2,500	60,000	0
	$ 230,500	129,750

Concerns were noted regarding both the incentives and the salary increases.

A. Although the prior Board President indicated the Board approved the various tasks required to receive the incentive payments, there was no documentation indicating this approval or any discussion of this. In addition, the tasks did not detail the exact work to be performed and the estimated time to complete the task. The incentive program was not a part of the city's personnel policy. The only approval noted by the Board was of the total incentive amounts included in the budget. City officials indicated that incentives were developed from input from the elected officials, the city administrator, and executive team members. Many of the incentives appeared to be for tasks that may have been completed by the respective positions regardless of the additional compensation. For instance, the city administrator received $6,250 for "operations reports to the board" and the managing director of community development received $3,750 for "water plant completion." These duties appear to be tasks that would have been completed regardless if an incentive would have been offered. Additionally, correspondence from the previous city administrator to staff was located soliciting "incentive ideas." Another instance was noted where an incentive apparently could not be completed during the year so it was replaced with another. Documented formal board approval of the tasks required would help ensure the work was, in fact, necessary work required by the city that was in addition to the employees' normal duties. In addition, without an estimated time, the city cannot ensure that the incentive paid was adequate for the work performed.

B. In 2003, the city contracted with an outside firm at a cost of $32,000 to perform a salary survey of positions in similar communities. In 2004, the city dropped the incentive plan; however, instead of basing the salaries on the survey results, salaries were increased in the amount of the 2003 incentives to form new base salaries and were frozen at this level for three years. Some of the salaries significantly exceed the survey data. For example, the O'Fallon city administrator is compensated approximately $26,000 more than the maximum salary noted on the salary survey for that position. City officials stated the salary levels were set to "avoid compensation decreases for Executive Team staff" because of the cancellation of the incentives; however, the tasks supporting the incentive payments were no longer required. For example, in 2003 both the city administrator and assistant city administrator received $10,000 each in incentive payments if at least 75 percent of the executive team incentives were met. There were no incentives for 2004; however, the city added $10,000 to each of these salaries.

WE RECOMMEND the Board of Alderman:

A. Refrain from providing incentives to employees without documenting its approval of the tasks required to receive the incentive payments. In addition, the tasks should detail the exact work to be performed and the estimated time to complete the task. Any incentive program should be adopted into the city's personnel policy.

B. Review the overall salaries and compare them to the salary survey to ensure salaries paid are not excessive.

AUDITEE'S RESPONSE

A. The current Board of Aldermen have reviewed the findings of the State Auditor and agree the 2002 and 2003 incentive plan for the executive team and other staff members are tasks that should have been considered as 'in line' with normal job duties and that the *incentives were not tasks 'above and beyond' what would have warranted pay incentives. The Board of Aldermen also agree there is no indication any official discussions took place to set up and approve the incentive plan other than to include them in the final budget. However, it has come to the attention of the Board of Aldermen that posted closed executive sessions did take place to discuss the incentive payments, but no minutes exist. The Board of Aldermen also find it very disturbing that incentives were changed, replaced, and in some cases removed when it became clear an incentive goal would not be met.*

The Board of Aldermen agree the salaries of the executive level employees should remain frozen until 2007; however, we feel it may be prudent to lower, or in some cases, remove the incentive pay that was granted if it is found these incentives were not fully warranted. The Board of Aldermen will also ensure all meetings are managed and performed in accordance with state law. The Board of Aldermen will also ensure approval is given to any and all pay plans, documenting detailed expectations and completion times prior to them taking effect; as well as ensuring they become part of the city's personnel plan.

The current Board of Aldermen have no plans to provide incentives to employees. If an incentive program is approved in the future, supporting documentation of the tasks required will be included in the program. In addition, any incentive program will be added and adopted into the city's personnel policy.

B. *The Board of Aldermen have come to the conclusion the city paid $32,000 in 2003 for a salary survey of similar communities but did not use it to adjust salaries to be in-line with its results. The Board of Aldermen agrees with the State Auditor that some salaries significantly exceed similar communities. The Board of Aldermen are greatly concerned with the huge amount of taxpayer money given as incentives in 2002 and 2003 that totaled $360,250 and was then rolled into executive and staff salaries permanently.*

The Board of Aldermen will use the salary survey to adjust salaries in the city to be in line with other communities of similar size taking into consideration a comparison of job titles, duties, experience and education, and also assess all salaries in accordance with the adopted budget.

2. Travel

Several concerns were noted regarding a trip to Ireland including no reconciliation of the total trip costs, no documented benefit to the city, and questionable items purchased by the city. Concerns regarding excessive costs were also noted regarding a trip to Colorado by the former mayor. Travel and training expenses incurred by the former city administrator were not approved by the board.

A. In January 2004, the former mayor, former city administrator, and seven board members along with their spouses traveled to Ireland with six business representatives and guests to try to establish a "sister city program". There was no overall accounting for the total trip costs and no documentation of the benefits of the trip to the city. In addition, items purchased by the city for the participants do not appear to be prudent and reasonable expenditures of the city. While the costs associated with this trip were covered through donations from local businesses, it appears that those in attendance were representing the city on official business and thus should follow city travel policy.

1. No calculation of the total trip cost and comparison of the trip receipts and expenditures was performed upon conclusion of the trip. In September 2004, a reconciliation of trip expenditures and donations received was completed by city officials and provided upon our request. Based on this reconciliation, the city received $44,000 in donations for this trip and spent $40,984. There is no accounting for the remaining $3,016. In addition, approximately $300 in costs reported were not accompanied by supporting invoices or receipts and some of the receipts submitted included purchases of alcohol. City policy forbids the purchase of alcoholic beverages. Reimbursement for purchases not supported by documentation may result in additional expenditures that are not reasonable, prudent, or within the guidelines set forth by city policy.

2. No documentation was provided by city officials on the benefits received from this trip. City officials indicated that the former city administrator prepared a DVD documenting the trip; however, no copy of the DVD was available at city hall. There was no documentation of any formal reporting on the results of the trip in a board meeting and the city has not entered into a "sister city program". To justify the high travel costs of this trip, the benefits to the city should be documented.

3. Several items were purchased by the city for the participants including passport holders, luggage tags, disposable cameras, and specially embroidered attaché cases. Each member of the group, including spouses and other non city employees, was provided with these items. At the conclusion of the trip, expenditures were also made for photo developing, blank DVD's, recorded music, and production software. City officials indicated these supplies were used by the former city administrator to prepare the DVDs highlighting the trip. The total amount spent on these items was approximately $1,800. These items do not appear to be prudent and reasonable expenditures of the city.

B. In June 2003, the former mayor attended a National Mayors' Conference in Denver, Colorado. The total cost for this trip to the city was approximately $3,300. Several expenditures related to the trip appear to be unreasonable. In addition, it is unclear if meals and other incidental expenses were paid for the mayor's family.

1. The mayor rented a van and drove to the conference along with three members of his family. Although city policy requires that the mode of travel selected be the most economical and advantageous, there was no documentation that the city compared the cost of driving versus flying to the conference. By driving to the conference rather than flying, the city incurred costs of over $1,000 in van rental, fuel, and extra meal and hotel costs for the travel days. Upon our questioning, the mayor estimated that the roundtrip airfare would have been approximately $300 and that a rental car and fuel for the three day conference would have cost approximately $110.

2. The lodging costs incurred for the trip were not the most economical available as a part of the conference. There were nine different hotel options/rates available to attendees and the mayor selected an executive suite at a rate of $255, approximately $70 per night more than the lowest available in that particular hotel and approximately twice as much as the lowest cost alternative available. City policy requires officials to incur expenditures the same as that of a prudent person on personal business. Without adhering to the guidance provided by city policy, the city may be incurring more costs than necessary.

3. Several side trips were made outside the Denver area that were not a part of the conference itinerary. On each of the three days that the conference was in session, fuel and meal receipts indicated purchases were made in towns approximately 30, 50, and 90 miles from Denver. The mayor indicated that the conference promoted different cities in Colorado during their sessions and would encourage you to visit these locations. However, the itinerary for the conference made no mention of this and appeared to promote facilities within the host city of Denver. With no inclusion on the conference itinerary and no documentation indicating the purpose and benefits of each of these side trips, it cannot be determined if they were necessary or beneficial to the city.

4. For the six days of the trip, approximately $570 was spent on food which appears excessive for one person. Credit card receipts for these transactions either did not exist or did not provide adequate detail to determine the number of meals served. City policy allows for travel expense reimbursement for spouses for legitimate business reasons where attendance of the spouse is required. This requires written justification pre-approved by the city administrator. It is not clear whether attendance of the mayor's spouse was necessary and no documentation of pre-approval by the city administrator was provided. City policy also allows for full reimbursement for meals only if accompanied by a receipt, otherwise an established per diem amount of $30 is paid.

In addition, the hotel bill included $38 for in room movies. City policy prohibits reimbursing expenditures of this type. Without following the guidance provided by city policy on reimbursable travel costs, the city may be incurring unnecessary costs.

C. The former city administrator attended a five day seminar titled "Critical Thinking: Real-World, Real-Time Decisions" at the Wharton School in Pennsylvania at a cost of $4,950 for the seminar and $610 for airfare, and additional hotel and meals. There was no documentation indicating the board approved this training prior to incurring the expense. The only approval obtained on the travel expense reimbursement form was by the city finance director. Although the city administrator's contract allowed him to attend various professional development events, no limit was established. Without documented approval by someone in a supervisory role, it is unclear if costly trips such as this are necessary or beneficial to the city.

WE RECOMMEND the Board of Alderman:

A.1. Fully account for all trip expenditures and ensure all reimbursements or payments for purchases made are supported by adequate supporting documentation.

2. Ensure that the benefits obtained from trips made by city officials and employees are documented.

3. Ensure expenditures made for city travel are reasonable and prudent.

B.1. Ensure that the most cost effective travel is selected and that other associated expenditures are reasonable and prudent, as required by city policy.

2. Ensure that expenditures for lodging are prudent, as required by city policy.

3. Ensure that costs incurred for travel not associated with the purpose of the trip are justified by written documentation or these costs are reimbursed to the city.

4. Ensure travel cost reimbursements for spouses and other non-employees are made in accordance with city policy including the documented pre-approval of such as required. In addition, full reimbursement for meals should not be provided unless accompanied by receipts as outlined in the city policy manual.

C. Review and approve all training and travel requests of the city administrator to ensure they are necessary, cost effective, and beneficial to the needs of the city.

AUDITEE'S RESPONSE

A.1. The Board of Aldermen is in agreement with the State Auditor that the trip to Ireland in January 2004 was paid for with private donations from the O'Fallon Community

Foundation (Mastercard), CitiGroup, T.R. Hughes, McEagle, and SSM. We also agree the trip was taken to conduct city business in trying to establish a Sister Cities Program. It is the Board's conclusion that the city officials should have been bound by the city's travel policy. The Board of Aldermen questions the true nature of the trip to Ireland since the city has had little or no progress on this issue since the group returned.

The Board of Aldermen will pursue the unaccounted $3,016 within the next six months. The Board of Aldermen will also ensure the city will enforce its policy requiring a receipt to accompany any expenditure.

2. *The Board of Aldermen agrees with the State Auditor that the city has done a poor job documenting the benefits gained from the trip to Ireland considering the cost. The current Board of Aldermen have not seen any DVD's documenting the trip and is uncertain if they exist, nor has there been any discussions dealing with the Sister Cities Program. The Board of Aldermen will review the Sister City Program within six months to see if any benefit can be gained for the city.*

3. *The current Board of Aldermen will review all expenditures for this trip within six months to ascertain the funds were spent wisely and in accordance with city travel policy. If feasible, the city will seek reimbursement for items that do not fall within city guidelines.*

B. *The Board of Aldermen is not opposed to the Mayor attending the National Mayor's Conference. However, we agree with the State Auditor that the $3,300 of taxpayers money used for this trip was excessive for a three day conference. The Board of Aldermen feel the Mayor failed to follow city policy by not selecting the most economical and advantageous mode of travel by costing the taxpayers of the city an additional $600.*

The Board of Aldermen will ensure the city's travel policy is enforced for all employees conducting city business out of town. If financially feasible, the Board of Aldermen will also seek reimbursement for any and all funds it deems to have been used inappropriately. The Board of Aldermen will make every effort to pursue the most cost effective method of travel, ensure travel expenditures are prudent, and verify travel costs for non-employees are not paid for with city funds.

C. *The City Administrator's contract states the city is responsible for paying for his professional development. Upon recommendation of the State Auditor's Office, the city now requires the Mayor or President of the Board to approve the City Administrator's travel.*

Within three months, we will revise our current travel policy to include authorization by the Mayor and Board President for the City Administrator. We will also review and approve all travel and training requests, for the City Administrator, to ensure that they are necessary, cost-effective, beneficial and fall within budgetary constraints of the city.

3. Real Estate Transactions

Several concerns were noted regarding real estate transactions including inadequate enforcement of or not following contract terms, lack of appraisals and advertising for bids, and the payment of real estate agent fees that appear to be unnecessary.

A. The city has not enforced the terms of a real estate sales contract requiring the construction of a building on a lot it sold. The property, which included the old city hall building, was appraised at $630,000 on November 19, 1997. The city requested proposals for the sale of the property and sold the property to a developer in June 1999 for $275,000. The real estate sales contract required that the old building be demolished and a masonry retail/office structure be built in its place within six months of site plan approval; however, no date for site plan approval was set in the contract.

   Five years have passed and although the developer demolished the old structure, a new building has not been constructed as required by the contract. In addition, the owner has placed the property for sale at an asking price of approximately $600,000. The city sales contract did not include penalties for non-performance (construction of the building). Although, the request for proposals did require a preliminary site plan, as well as a timeline for completion of the project, the final contract did not have any established deadlines. By including the requirement to build a structure on the site, which appears will not be done by the purchaser, the city may have reduced the number of initial bidders on this property. The city should take appropriate action to attempt to enforce the terms of the real estate contract. In addition, future contracts should include enforceable deadlines.

B. The city sold a building and land to a tenant for less than the amount agreed upon per the original lease agreement. The building was appraised at $240,000 on November 19, 1997. It was leased to a tenant from December 1997 to December 2002 for $1 per year. In lieu of market rate lease payments, the tenant was to make approximately $200,000 in improvements to the property over the five year lease period. The lease provided the option to the tenant to purchase the property for $475,000. On December 2002, the property was sold to the tenant for $300,000. City officials indicated that the lower price was the result of a smaller section of the parking area being conveyed as well as roof damage to the building. However, there was no documentation to show how the difference of $175,000 was determined and no new appraisal was obtained. City officials commented that a re-appraisal was unnecessary because any increase in value was the result of the improvements made by the tenant. However, these improvements were in lieu of market rate lease payments of $3,250 a month or a total of $195,000 over the five year period.

C. The city does not have a written policy or established guidelines for the purchase and sale of real estate. During a review of real estate transactions, we noted that city property was sold without advertising for bids, property was purchased without documentation that an appraisal was performed, and the services of a real estate agent were used that did not appear necessary.

1. The city sold a piece of property without advertising for bids. The city was in the second year of a five year lease to a tenant when it was decided to sell the building for $170,000 to a party other than the lessee in December 2002. City officials indicated that the building was in severe disrepair prior to the commencement of the lease and thus had a negligible value; however, the city invested approximately $200,000 to renovate the building prior to the lease and the building appraised at $180,000 in August 2001. City officials stated that since the tenant had already spent approximately $25,000 in lease payments that a selling price of $170,000 was appropriate. City officials also indicated that bidding was not required because the building was being leased. However, since the lease payments were for rental of the building, applying them to the purchase price is questionable.

2. The city could not provide documentation that an appraisal had been done on the purchase of a parcel of land. The city purchased a piece of property during 2003 at a cost of approximately $114,000 for use as a right of way. City officials thought this property had been appraised prior to the purchase; however, no documentation of this could be located. Without an independent appraisal, the city has less assurance that the price paid for the property was reasonable or represented the fair value of the property.

3. The city paid approximately $30,000 in commissions to a real estate agent for the sale of the properties noted in B and C1. above. It is questionable how the services of a real estate agent were necessary in either of these transactions and the city could not provide evidence of the services received for these costs. The city paid closing costs to a title company to prepare the legal documents on both of these properties in addition to the commission paid to the real estate agent.

Without adequate written polices or procedures on the purchase and sale of real estate, the city cannot be assured that transactions are conducted in the most appropriate and cost effective means.

<u>**WE RECOMMEND**</u> the Board of Alderman:

A. Consult with their legal counsel regarding possible enforcement of the terms of the contract. In addition, in the future, the city should ensure that contracts include enforceable deadlines and penalties for non-performance.

B. On future transactions, comply with previously agreed upon sale prices or adequately document its justification for any differences.

C. Develop written policies and procedures on the purchase and sale of real estate. These policies should include requirements for when bids and appraisals are required and when the services of a real estate agent or broker would be required.

AUDITEE'S RESPONSE

A. The Board of Aldermen will consult with legal counsel regarding enforcement of the terms of the contract. The city will immediately include enforceable deadlines and penalties for non-performance in real estate contracts.

B. The Board of Aldermen will consult with legal counsel regarding enforcement of the terms of the contract. The city will immediately and adequately document justification of changes in real estate contracts.

C. The city will develop, within six months, written policies and procedures on the purchase and sale of real estate, including when bids and appraisals are required, and when the services of a real estate agent or broker are required.

4. Expenditures

Credit card purchases including many meals at local restaurants do not have adequate supporting documentation. Concerns were noted regarding the attorney’s contract and billing and the enforcement of the terms of a contract regarding the downtown redevelopment.

A. Credit card purchases did not have adequate supporting documentation. Total credit card purchases for fiscal year 2003 were approximately $83,000. Several of the credit card receipts indicated the total amount paid but included no detail or explanation of what was purchased. Other purchases were not accompanied by any type of receipt. Examples of items noted without receipts or detailed receipts included purchases of $208 on the former mayor’s trip to Colorado and $95 to a local country club.

Several credit card receipts were for meals at local area restaurants including one charge for $90. City officials stated these meals were for meetings of city officials and others. However, the purpose of the meeting and a list of those attending are not included on the receipts.

Without detailed supporting documentation including the purpose of the charge, it cannot be determined if the expenditures were within the guidelines established by the city and/or if the expenditures were reasonable and necessary uses of public funds.

B. The city does not have a contract with the city attorney and billing information provided by the city attorney does not provide adequate detail. The city spent approximately $415,000 with the city attorney's firm.

1. The city does not have a current contract with its attorney outlining the types of services to be provided and at what cost. The city had an engagement letter dating from 2001; however, the only documentation to support the rates used in 2004 was a memo from the city attorney to the city clerk. Written contracts should be current and should specify the services to be rendered and the manner and amount of compensation to be paid. Written contracts are necessary to ensure all parties are aware of their duties and responsibilities and to prevent misunderstandings. In addition, Section 432.070, RSMo, requires contracts for political subdivisions to be in writing.

2. Invoices provided to the city from the city attorney are not adequate. While the invoices include the detail of each activity performed, the time for each activity is not included. Since legal services are billed on an hourly basis, invoices should include the detail of time spent on each activity to ensure the proper amount is billed.

3. Costs for legal services provided to the city have continued to increase over the last several years. The city currently utilizes a single law firm to act as city attorney and contracts with other legal firms on projects where their expertise is needed. From fiscal year 1999 to fiscal year 2004, legal costs to the city increased from approximately $160,000 to over $478,000 per year. In fiscal year 2005, legal service costs decreased to $357,000. If continued growth is anticipated by the city, consideration should be given to formally evaluating the cost of outside attorneys versus hiring their own staff.

C. The city has not enforced the contract terms relating to the downtown redevelopment project and, as a result, has not recovered over $144,000 in costs. In March 2003, the city entered into a contract regarding a downtown redevelopment project. As a condition of this contract, the developer paid the city for upfront costs related to the project of $110,000. However, additional costs totaling over $144,000 were incurred by the city and were not reimbursed by the developer as required. Due to the lack of timely follow-up with terms and conditions set forth by the contract, the city incurred unreimbursed costs that may not be recovered.

WE RECOMMEND the Board of Alderman:

A. Ensure all expenditures have adequate documentation. All meeting meal receipts should indicate the purpose of the meeting and the people attending.

B.1. Enter into a written contract with the attorney detailing the duties to be performed and the costs associated with the service.

2. Ensure invoices provided for legal services provide adequate detail of time charged.

3. Review the option of developing an in-house legal department.

C. Consult with their legal counsel regarding the enforcement of the terms of this agreement and, in the future, monitor compliance with contractual agreements more timely.

AUDITEE'S RESPONSE

A. No amount of policy variation is acceptable. Effective immediately, the city will require adequate documentation of meetings and attendance and accept no deviations to ensure prudent spending of city funds.

B. The city will review legal agreements on an annual basis to ensure the duties performed and the costs associated are appropriate.

The increase of legal services is a reflection of a growing community. These legal services range from personnel, contract evaluation, ordinance review, and attendance at city board and commission meetings. Due to the assortment of legal services, it is difficult to expect one attorney to handle the varying range of legal issues effectively. The city will review the option of developing an in-house legal department or the use of paralegals to reduce costs. In addition, effective immediately, the city will require by subject and by hour, or a portion thereof, itemized invoices for all legal services.

C. The city will establish a strong monitoring of escrow type accounts with individuals, corporations, LLC's or other entities obligated to pay for services, equipment, or other items the city is responsible for spending or monitoring. The city is currently suing to recover the spent money that is contractually owed.

5. Stadium and Park Operations

While the Public Venue Fund does not include some stadium operation costs, unrelated revenues are included. The City Park Board has not been structured and empowered in compliance with state statute.

A. The city's Public Venue Fund does not reflect the total cost of operating the T.R. Hughes Stadium and the resulting city subsidy. Reported revenues and transfers in to the fund were approximately $500,000 while expenditures were approximately $770,000 for a reported operating loss of $270,000 for the year ended December 31, 2003. However, the fund does not include some stadium operation costs and unrelated revenues are included.

The major source of revenue for the Public Venue Fund is receipts from a professional baseball team contractual agreement. Additionally, cell phone tower lease receipts are deposited to this fund. The cell phone tower lease receipts appear to have no direct connection to the operations of the stadium. The cell phone towers are located in various areas throughout the city and generated approximately $100,000 for the year ended December 31, 2003.

The only expenditures paid from the Public Venue Fund are for the debt service payments on the related revenue bonds. Expenditures related to field operations totaling $256,000 and capital improvements on the stadium totaling $41,000 were made through the Park Fund for the year ended December 31, 2003.

Had all stadium activity been recorded in the fund, revenues and transfers in would be only $400,000 and expenditures would be $1,067,000 for an operating loss of approximately $667,000. Although operating the fund with subsidies from the general or park fund is allowable, by including revenues that are not generated as a result of the stadium and recording costs related to stadium operations in other funds, the Public Venue Fund does not provide a true and accurate accounting of the overall stadium operations.

B. The City Park Board has not been structured and empowered in compliance with state statute. The city ordinance, approved in 1979, establishing the Park Board indicates it was established under Sections 90.500 through 90.570, RSMo. These sections state that the Park Board shall adopt bylaws and rules and regulations for its guidance and have exclusive control of its expenditures. However, the O'Fallon Park Board has, since its inception, served primarily as an advisory group to the Board of Alderman and expenditures have been paid upon approval by the Board of Alderman and not the Park Board.

WE RECOMMEND the Board of Alderman:

A. Account for only those revenues related to the stadium and all costs associated with the stadium and its operations through the Public Venue Fund.

B. Consult their legal counsel regarding the proper structure of the Park Board to ensure compliance with state statutes.

AUDITEE'S RESPONSE

A. The city will evaluate the accounting for all revenues and expenses associated with the stadium in the Public Venue Fund. This will be completed during the mid-year budget amendment process.

B. *Within six months, the Board of Aldermen will consult with legal counsel to look at the ordinance established in 1979, its legality and whether to change the ordinance or follow State Statute Sections 90.500 through 90.570 for its Parks Board.*

6. Financial Obligations

The city's financial obligations have risen significantly over the last several years to a level higher than that of similar sized cities due in large part to the use of certificates of participation (COPS). COPS are a method of financing a capital project whereby a tax-exempt corporation is formed, sells interests (certificates of participation) in the capital project, leases the project to a local government, and repays the certificates with the lease payments. After the certificates have been repaid, the local government typically has the option to purchase at a minimal amount the capital project it has been leasing. COPS are not required to be approved by the city voters.

From 1999 to 2003, the overall financial liability of the city (excluding the TIF bonds) has increased approximately 72 percent from $88 million to $152 million. Over this same time period, the city's population increased approximately 44 percent. This has led to an increased level of liabilities per capita over this five year period. Most of this debt was used to finance expansion of the city water and sewer system, streets, and the start–up of the city trash collection service.

The city has established various key debt ratios to help ensure financial stability. One of these ratios is net direct bonded debt per capita is not to exceed $750. With general obligation bonded debt totaling $49,725,000 this ratio is at its maximum. However, general obligation bonded debt is only 32 percent of the total city debt. A large portion of the city’s debt is in COPS ($79,715,000) and revenue bonds ($22,940,000). If these liabilities are included in the calculation, debt per capita is $2,313 or three times the key debt ratio.

The following chart shows O’Fallon compared to three other similar sized cities within the state for fiscal year 2003.

City	Long Term Liabilities (in millions)	Population	Total Liabilities per Capita
O' Fallon	$152.3	65,834	$2,313
St. Peters	63.8	57,000	1,119
Columbia	138.6	89,174	1,554
Lee’s Summit	78.0	76,043	1,026

Including COPS along with other debt in monitoring the various debt ratios, would help ensure the city is maintaining adequate financial stability.

WE RECOMMEND the Board of Alderman include COPS and other debt when monitoring the overall financial obligations of the city.

AUDITEE'S RESPONSE

The city will continue to monitor all financial obligations of the city. In October 2005, the GASB (Governmental Accounting Standards Board) is issuing guidance which will include all long-term debt obligations, including COPS, within the financial statements. The city will implement this standard according to GASB guidelines.

7. City Vehicles

Standard mileage logs are not maintained for city owned vehicles, the types of vehicles assigned to some of the city officials appear unreasonable, IRS requirements for the use of the commuting rule are not being followed, and unreasonable commuting mileage is allowed in some instances.

A. Through its various departments, the city owns and operates approximately 200 road vehicles. Standard mileage logs are not maintained for these vehicles. Complete and detailed mileage logs are necessary to monitor mileage and evaluate the usage of vehicles. The mileage logs should include the purpose and destination of each trip, and the daily beginning and ending odometer readings. These logs should be periodically reviewed by a supervisor to ensure vehicles and equipment are used only for city business and are being properly utilized. Information on the logs should be reconciled to gasoline purchases and other maintenance charges.

In addition, 15 executive team employees, including the city administrator, assistant administrator, and several directors, are allowed to use city owned vehicles to commute to and from work and for other personal use. IRS guidelines require the full value of the provided vehicle to be reported if the employer does not require the submission of detailed logs that distinguish between business and personal usage. Although the city requires these employees to report the total personal miles on a quarterly basis, because it does not require detailed logs, the city should report the full value of the vehicle to the IRS.

B. Of the 15 executive team members assigned a vehicle, 13 are assigned trucks or sport utility vehicles. The vehicles are used for commuting, personal use, and to conduct routine city business. Most of the vehicles are four wheel drive and, in some cases, heavy duty models that are more costly to acquire and operate. It is questionable as to whether these types of vehicles are necessary to fulfill the duties of these employees.

C. Three employees who were assigned trucks are allowed to commute distances which appear unreasonable. These three employees commute roundtrip approximately 20, 40, and 60 miles per day, respectively, and all are assigned heavy duty four wheel drive trucks. From a review of their third quarter 2004 mileage reports, over 50 percent of the mileage put on their assigned vehicles is attributed to commuting. In addition, these employees report this benefit to the IRS under the commuting rule which only requires them to report a taxable benefit of $3 per day. While this benefit is allowable and reported as required by the IRS, the amount of mileage and the type of vehicles allowed for commuting these distances appears unreasonable and excessive.

In addition, the IRS commuting rule requires the city have a written policy indicating that a vehicle cannot be used for any personal mileage except for commuting when using the commuting rule to report benefits. The city does not have a written policy addressing this. Without a written policy, the city is not compliant with IRS regulations.

WE RECOMMEND the Board of Aldermen:

A. Require mileage logs be maintained that reflect business and personal miles driven and review these logs periodically for reasonableness.

B. Review the necessity of providing vehicles with higher initial, maintenance, and operating costs to city officials.

C. Limit commuting distances allowed and develop a written policy on personal usage of the city vehicles when reporting the fringe benefits of this use under the commuting rule.

AUDITEE'S RESPONSE

A. The city has approximately 200 road vehicles, of which 52 are police vehicles. Of the remaining road vehicles, only a portion of these are eligible to be utilized for personal use. Employees who utilize vehicles eligible for personal use are required to report personal mileage on a quarterly basis in compliance with city policy. These quarterly mileage reports distinguish between personal use and business use. The employee is then taxed for the benefit per IRS regulations. The city will require detailed logs documenting personal use and will continue to abide by the IRS regulations. The detailed logs will commence July 1, 2005. Supervisors will perform spot checks on the logs for compliance.

B. The city will continue to manage the cost effectiveness of the entire vehicle fleet.

C. The city has notified individuals that use the commuting rule of the limitations of using their vehicle for personal purposes as referenced in the Internal Revenue Code. The city's current policy references IRS guidelines. In the future, the city's policy will further clarify this issue. Prior to the end of 2005, the city will consider developing a policy limiting commuting distances in city vehicles.

8. Mobile Communications

The city has not performed a review to determine the need for the number of two-way radio/mobile phones that are currently in use. The city currently utilizes approximately 180 two-way radio/mobile phones and 56 cellular phones. During the year ended December 31, 2003, the city spent approximately $129,000 on the two-way radio/mobile phone services and $19,000 for cellular phone services. For the nine months ended September 30, 2004 the totals were approximately $87,000 and $14,000, respectively.

Several two-way radio/mobile phones have little or no usage and some are assigned to staff where the need is questionable. Approximately 50 percent of the staff are assigned a radio/mobile phone. The city has not performed a review to determine if all the radio/phones in use are necessary and there has been no reduction in the number of standard phones. Mobile phones are assigned to individuals that work in city hall such as receptionists and secretaries that already have the use of standard phones. The necessity of having the additional costs of the two-way radio/mobile phones for these individuals is questionable. Most of the individuals that work outside of city hall such as parks personnel and road crews all have radio/phones. It may be more efficient to assign one radio/phone per vehicle or work crew. While these devices provide convenience to the users, they are also costly to the city. By canceling the underutilized and unnecessary units and combining the usage of other units, the city may realize a cost savings.

WE RECOMMEND the Board of Alderman evaluate the need for the number of two-way radio/phones that are currently in use.

AUDITEE'S RESPONSE

During the first quarter of 2005, the city reduced the number of existing phones by 12 percent. The city will continue to evaluate the number of phones currently in use.

9. Public Records

The city does not provide adequate detail of the costs of obtaining public records in its ordinance and the cost of obtaining a videotape copy of a board meeting appears excessive. Meeting notices, agendas and minutes were not maintained for some committees.

A. Although the city has an ordinance regarding public access to city records including the copy cost per page, the ordinance does not include other related costs such as that for hourly research and copying time or copies of videotaped council meetings. The city has set fees that are charged for these services but they are not documented in a city ordinance. An ordinance including all fees to be charged would ensure that the public is aware of the costs charged to everyone on a consistent basis.

B. The city provides videotaped copies of board meetings to the public at a cost of $25 per tape. The city did not provide documentation to justify how they arrived at the $25 cost. Section 610.026, RSMo, allows the city to charge fees for videotapes, not to exceed the city's actual cost of search, materials, and duplication.

C. Meeting notices were not posted, agendas were not maintained, and minutes were not recorded for some meetings. The Downtown Partnership group, established to provide guidance on the downtown redevelopment, began holding regular meetings in June 2001 to discuss a planned redevelopment in the city. Meeting notices were not posted for 16 meetings held from June 2001 to October 2002. Additionally, agendas and minutes were not available for several of these meetings. In addition, minutes were not maintained for the budget committee meetings held each year during the planning and development stages of the budget. Section 610.020, RSMo, requires a posting of the time, date and place of each meeting along with a tentative agenda of the matters to be discussed. This section also requires minutes of all meetings be taken and retained.

WE RECOMMEND the Board of Alderman:

A. Add a schedule of fees charged to the city ordinance on open meetings and records.

B. Review the amount charged for videotaped copies of board meetings and ensure the fee of providing the tape does not exceed the actual costs.

C. Ensure meeting notices are posted, agendas are maintained, and minutes are recorded for all meetings of city boards and advisory groups.

AUDITEE'S RESPONSE

A&B. Within six months, the city will review the schedule of fees and update as needed.

C. Currently, meeting notices are posted, agendas are maintained, and minutes are recorded for all Board established committees in compliance with State Statutes. The budget committee is not a formal committee established by ordinance. As a result, the budget committee is composed of informal meetings between staff and a non-quorum of officials in an effort to propose a preliminary budget. O'Fallon is committed to open government and will post all meetings, maintain agendas, keep minutes and err on the side of openness. All future budget sessions will be posted and open to the public. Within six months, we will seek the Attorney General's advice on what committees and boards are to be compliant with Section 610 RSMo (Missouri's Sunshine Law).

10. Municipal Court

In September 2003, the State Auditor's Office initiated a routine audit of the O'Fallon Municipal Court. Within a few days of starting the audit, the court administrator admitted to the misappropriation of funds. The city decided to contract with an independent audit firm to review the court records and procedures to determine the amount of loss and how it had occurred. At that time, due to the pending petition audit, the State Auditor's Office halted its audit of the municipal court. The independent audit firm reported in January 2004, that approximately $350,000 appears to have been misappropriated from the municipal court from 1997 to 2003. The misappropriation appears to have occurred because of a lack of control procedures and segregation of duties. The court administrator was terminated from her position and the city has implemented procedures to prevent such misappropriations in the future.

WE RECOMMEND the municipal division, along with the city, continue to work with law enforcement officials regarding criminal prosecution and to obtain restitution of the misappropriated funds.

AUDITEE'S RESPONSE

The city is working with law enforcement officials regarding criminal prosecution and restitution of the misappropriated funds. We are also filing a claim with our bond insurance company. In addition, we have used the independent auditor's recommendation to tighten our controls to prevent the likelihood of this happening again.

HISTORY, ORGANIZATION, AND STATISTICAL INFORMATION

CITY OF O'FALLON, MISSOURI
HISTORY, ORGANIZATION, AND
STATISTICAL INFORMATION

The city of O'Fallon is located in St. Charles County. The city was incorporated in 1912 and is currently a fourth class city. The population of the city in 2000 was 51,274.

The city government consists of a mayor and eight-member board of alderman. The members are elected for two year terms. The mayor is elected for a four year term, presides over the board of aldermen, and votes only in the case of a tie. The Mayor, Board of Aldermen, and other officials during the year ended December 31, 2003, are identified below. The Mayor is paid $19,900 annually. The board members are paid $7,600 annually with the Board President receiving an additional $300. The compensation of these officials is established by ordinance.

Mayor and Board of Aldermen	Dates of Service During the Year Ended December 31, 2003
Paul Renaud, Mayor (1)	January 2003 to December 2003
Bill Hennessy, Board President (2)	January 2003 to December 2003
Daniel Brungard, Alderman (3)	January 2003 to December 2003
Dave Hinman, Alderman(2) (4)	January 2003 to December 2003
Cheryl Hibbeler, Alderwoman (5)	January 2003 to December 2003
Mark Perkins, Alderman (6)	January 2003 to December 2003
Lawrence Schulte, Alderman (7)	January 2003 to December 2003
Cynthia Davis, Alderwoman (8)	January 2003
Robert Fisher, Alderman (9)	January 2003 to December 2003
Thomas Shoemaker, Alderman (10)	January 2003 to July 2003
Daniel McAteer, Alderman	November 2003 to December 2003

(1) Mayor Renaud's term ended in April 2005 and he was replaced by Donna Morrow.
(2) David Hinman replaced Bill Hennessy as Board President in April 2004 and served until April 2005.
(3) Alderman Brungard's term ended in April 2005 and he was replaced by Peter Cantwell.
(4) Alderman Hinman's term ended in April 2005 and he was replaced by Terry Busken.
(5) Alderwoman Hibbeler's term ended in April 2005 and she was replaced by Randy Hudson.
(6) Alderman Perkins' term ended in April 2004 and he was replaced by Robert Patek.
(7) Alderman Schulte's term ended in April 2004 and he was replaced by Jeff Kuehn.
(8) Alderwoman Davis resigned in January 2003. Alderman Fisher was appointed to serve the rest of the term.
(9) Alderman Fisher's term ended in April 2004 and he was replaced by Lyn Schipper.
(10) Alderman Shoemaker resigned in July 2003. Alderman McAteer was appointed to serve the rest of the term.

Other Principal Officials	Dates of Service During the Year Ended December 31, 2003		Compensation Paid for the Year Ended December 31, 2003
Patrick Banger, City Administrator (1)(2)	January 2003 to December 2003	$	168,200
Todd Galbierz, Assistant City Administrator (1)(2)	January 2003 to December 2003		122,343
Sandra Stokes, City Clerk	January 2003 to December 2003		100,752
Jim Grabenhorst, Director of Economic Development (1)(3)	January 2003 to September 2003		74,049
Libbey Simpson, Director of Economic Development (3)	September 2003 to December 2003		55,314
Mike Bramstedt, Director of Management Information Systems	January 2003 to December 2003		84,936
Vicki Boschert, Director of Finance	January 2003 to December 2003		81,970
Ken Morgan, Director of Community Development (1)(4)(5)	January 2003 to December 2003		104,896
Charles Mobley, Director of Public Works(6)	September 2003 to December 2003		69,235
Christine Look, Director of Public Works/Assistant Director of Community Development (1)(6)	January 2003 to June 2003		35,163
Steven Talbott, Chief of Police (1)	January 2003 to December 2003		121,941
Cynthia Berry, Director of Human Resources	January 2003 to December 2003		63,650
John Griesenauer, Director of Administrative Services (1)	January 2003 to December 2003		97,616
Tim Vanatta, Director of Parks and Recreation (1)	January 2003 to December 2003		102,142
Christopher Keesey, Director of Waste Services (1)(7)	January 2003 to July 2003		48,866
Greg Smothers, Director of Environmental Services (7)	July 2003 to December 2003		53,727
Mark Piontek, City Attorney (8)	January 2003 to December 2003		

(1) These employees are allowed to take home their assigned city vehicle as a part of their compensation. The employee is taxed on the benefit per IRS guidelines and the amount is included in the compensation noted.

(2) Patrick Banger resigned on April 2, 2004. He was replaced by Todd Galbierz.

(3) Jim Grabenhorst resigned on September 19, 2003. Libbey Simpson was promoted to Interim Director of Economic Development on August 18, 2003. Her compensation

includes the amount she was paid as Assistant Director of Economic Development from January through August 2003.

(4) Compensation amount includes $3,000 for moving expense.

(5) Ken Morgan resigned as Director of Community Development on July 15, 2004. He was replaced on September 22, 2004 by Todd Criswell.

(6) Charles Mobley replaced Christine Look as Director of Public Works in September 2003.

(7) Christopher Keesey resigned on July 11, 2003. Greg Smothers was promoted on July 19, 2003 to Director of Environmental Services (Waste Services) from Internal Auditor. His compensation for the year is for both positions. David Sandknop was hired as Internal Auditor on April 7, 2004 to replace Greg Smothers.

(8) The city is billed on an hourly basis from the law firm of Lewis, Rice, and Fingersh for Mark Piontek to serve as City Attorney. For the year ended December, 31, 2003, the city paid Lewis, Rice, and Fingersh $414,858 for legal services.

In addition to the officials identified above, the city employed 305 full-time employees and 12 part-time employees on December 31, 2003.

Assessed valuations and tax rates for 2003 and 2004 were as follows:

ASSESSED VALUATIONS		2003	2004
Real estate	$	817,299,210	887,185,760
Personal property		176,971,575	187,611,084
Railroad and utility		14,442,713	15,694,166
Total	$	1,008,713,498	1,090,491,010

TAX RATES PER $100 ASSESSED VALUATION

		2003	2004
		Rate	Rate
General Fund	$	0.3750	0.3750
Parks and recreation		0.1350	0.1350
Debt service		0.3300	0.3100

TAX RATE(S) PER $1 OF RETAIL SALES

		2003	2004
		Rate	Rate
General	$	0.0100	0.0100
Transportation		0.0050	0.0050