



Susan Montee, JD, CPA  
Missouri State Auditor

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# Northeast Ambulance and Fire Protection District



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November 2009  
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Office of the  
Missouri State Auditor  
Susan Montee, JD, CPA

November 2009

The following report is our audit of the Northeast Ambulance and Fire Protection District.

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The State Auditor's office is currently in litigation to obtain access to various records of the Northeast Ambulance and Fire Protection District for assistance in performing our audit. As a result of the lack of access to records, we were unable to determine if amounts paid for some services were in compliance with contracts, if invoices were adequately detailed, and/or if some monies spent were for district business.

The district's budget does not comply with state law. The Board prepared a budget for the General Operating Fund; however, it only included disbursement information. A budget was not prepared for the Ambulance, Pension, and Dispatch Funds. In addition, the General Operating Fund budget was missing items required by state law and the Board's approval of the budget was not adequately documented. The audit report for the 18 months ended June 30, 2007, prepared by a CPA firm, contained 25 audit findings and corresponding recommendations, some of which were significant.

Procedures related to the allocation of property taxes and fund accounting are in need of improvement. The district does not properly maintain a general ledger system or maintain records of the various funds as required by state law. For the Ambulance, Pension, and Dispatch Funds, state law requires funds be exclusively used for the purpose to which the tax levies were approved by the district's citizens. The district deposits all taxes received into the General Operating Fund.

The district did not solicit proposals prior to contracting for legal services, and the total spent for legal services does not appear reasonable. Portions of the district's new contract for legal and lobbying services do not appear to comply with Missouri law.

The district did not solicit bids for some purchases and some disbursements did not appear to be prudent and necessary uses of public funds including a 37 inch flat screen television. The district did not prepare Internal Revenue Service Forms 1099 Miscellaneous for payments to the legal officer (\$143,366), the assistant legal officer (\$89,880), the computer consultant (\$37,688) and to a vendor for remodeling (\$9,300). The district did not enter into contracts for some services, update some contracts, and maintain copies of some contracts. The district does not have a formal policy regarding credit card usage or travel expenses. The Board has not established a conflict of interest policy, and the district purchased a building for \$512,600 with the wife of the district's legal counsel serving as the real estate agent of record.

The district has not developed a written policy regarding cellular telephone use or guidelines. The district provides cellular telephones to the Directors, Fire Chief, Assistant

YELLOW SHEET

Chief, Chief Deputies, and Chief Medical Officer and the district allows employees to use district provided telephones for personal use. In March 2008, plan minutes ranged from 8 minutes to 3,834 minutes and amounts billed ranged from \$46 to \$1,055 per phone.

Payroll records and procedures are in need of improvement. The Board paid additional compensation or bonuses to employees totaling \$51,000 (\$1,500 per employee) and \$34,000 (\$1,000 per employee) in December 2008 and 2007, respectively. The cost of performing office functions increased from approximately \$15,600 during the year ended June 30, 2007, to \$43,040 during the year ended June 30, 2008, to \$85,520 during the year ended June 30, 2009, excluding overtime costs.

The district contracted for website design and maintenance in April 2007, to provide, build, and maintain a website for the district, without soliciting proposals. In addition, the district hired the same individual as the special project consultant in March 2008, without soliciting proposals. Disbursements for the year ended June 30, 2008, for website design and maintenance did not appear to be necessary uses of public funds, and some appear excessive. Supporting documentation for computer services and consulting disbursements was insufficient.

Prior to the April 2009 election, it appears the district used equipment and personnel to promote a bond issue and a candidate for the Board. The Board placed a \$10.3 million bond issue on the ballot for four consecutive elections, at continued cost to the citizens (\$53,413), although it continues to be defeated.

District Ordinance No. 97, which authorizes the Board of Directors to fine and ban individuals from future meetings for contempt, disorderly conduct, peace disturbance, and trespassing does not appear to comply with state law. The Board does not have the discretion to determine what actions are or are not disturbing the peace as these are rights or actions ascribed to the police department or sheriff, prosecutor, and court system. In addition, the Sunshine Law clearly intends for all meetings of public governmental bodies to be open to the people and not conducted in secrecy.

Procedures regarding meetings and minutes are in need of improvement. Reasons for closing meetings are not specifically indicated in open meeting minutes or notices posted of closed meetings. Minutes for closed sessions are not prepared. The district did not document how some items discussed in closed sessions complied with state law. In addition, some meeting minutes do not include sufficient detail of matters discussed.

The district did not honor the Firefighters Union Contract. The district entered into a contract with the Local Firefighters 2665 Union in December 1996. In June 2007, the current Board passed a resolution stating the agreement was not binding, and the district would no longer honor the contract.

Other findings in the audit report relate to ambulance fees, receipt controls, capital assets, and vehicle usage.

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NORTHEAST AMBULANCE AND  
FIRE PROTECTION DISTRICT

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STATE AUDITOR'S REPORT



**SUSAN MONTEE, JD, CPA**  
**Missouri State Auditor**

To the Honorable Jeremiah W. (Jay) Nixon, Governor  
and  
Board of Directors  
Northeast Ambulance and Fire Protection District

The State Auditor was requested by former Governor Matt Blunt under Section 26.060, RSMo, to audit the Northeast Ambulance and Fire Protection District. The district engaged Charles Buchanan, CPA, PC, Certified Public Accountants (CPAs), to audit the district's financial statements for the 18 months ended June 30, 2007. To minimize duplication of effort, we reviewed the CPA firm's audit report. The scope of our audit included, but was not necessarily limited to, the year ended June 30, 2008. The objectives of our audit were to:

1. Obtain an understanding of the taxpayer concerns and perform various procedures to determine their validity and significance.
2. Evaluate the district's internal controls over significant management and financial functions.
3. Evaluate the district's compliance with certain legal provisions.

Our methodology included reviewing minutes of meetings, written policies and procedures, financial records, and other pertinent documents; inspection of capital assets; interviewing various personnel of the district, as well as certain external parties; and testing selected transactions. Some financial records and supporting documentation requested were not provided to us. Because of this limitation on the scope of our audit, we could not audit those transactions or information related to the transactions. In July 2009, we filed litigation to secure access to the records and that litigation is currently pending.

We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. However, providing an opinion on the effectiveness of internal controls was not an objective of our audit and accordingly, we do not express such an opinion.

We obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract, or other legal provisions could occur. 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. Abuse, which refers to behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary given the facts and circumstances, does not necessarily involve noncompliance with legal provisions. Because the determination of abuse is subjective, our audit is not required to provide reasonable assurance of detecting abuse.

Except to the extent that we were prevented from reviewing any relevant and necessary information as a result of the district's refusal to provide certain records, our audit was conducted in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

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

The accompanying Management Advisory Report presents our findings arising from our audit of the Northeast Ambulance and Fire Protection District.



Susan Montee, JD, CPA  
State Auditor

The following auditors participated in the preparation of this report:

Director of Audits:	Alice M. Fast, CPA, CIA, CGFM
Audit Manager:	Debra S. Lewis, CPA
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Audit Staff:	Jay Dowell

MANAGEMENT ADVISORY REPORT -  
STATE AUDITOR'S FINDINGS



NORTHEAST AMBULANCE AND  
FIRE PROTECTION DISTRICT  
MANAGEMENT ADVISORY REPORT -  
STATE AUDITOR'S FINDINGS

<b>1. Lack of Records</b>
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The district did not provide various records to the State Auditor's office as requested during the course of the audit. In addition, the district did not maintain adequate documentation for some disbursements.

- A. During December 2008 through March 2009, the State Auditor's office requested various records of the Northeast Ambulance and Fire Protection District for assistance in performing the audit. Records were requested in writing from the district's Office Manager or the CPA working at the district and appointed as the audit contact, at least weekly, but were not provided. In June 2009, the State Auditor's office issued a subpoena requesting the same records and still no records were produced. The State Auditor's office is currently in litigation to obtain access to the records listed on Appendix A.

As a result of the lack of access to records, we were unable to determine if amounts paid from July 1, 2007 through February 24, 2009, for some services were in compliance with contracts and/or if invoices were adequately detailed. Examples of such records are \$229,982 in payments to the district's legal officer and \$11,490 to a vendor for building repair.

In addition, we could not examine numerous other invoices to determine if some monies spent were for district business. Without adequate detailed documentation, we could not determine payments were reasonable, in compliance with contracts, or prudent uses of taxpayer monies.

- B. Supporting documentation for some disbursements was insufficient. District personnel indicated invoices could not be located for some disbursements. Two fans were purchased for \$440 and the only documentation was a copy of the check stub which noted "2 fans for the engine room". In addition, the district paid an individual for working as a security guard at a board meeting, without any documentation from the individual. The only documentation for the disbursement was a copy of the check.

All disbursements should be supported by vendor invoices to ensure the obligation was actually incurred and the disbursement represents an appropriate use of funds. The Board of Directors has a fiduciary responsibility to ensure disbursements are appropriate and reasonable, and supported with adequate documentation.

- C. Some payroll registers could not be located. District personnel indicated they could not locate payroll registers for March and April 2008, and part of May 2008. The retention of all financial-related records is necessary to ensure the validity of transactions and provide an audit trail to account for all monies expended. In addition, the retention of payroll registers helps document compliance with the Fair Labor Standards Act of 1938 (FLSA).

**WE RECOMMEND** the Board of Directors:

- A. Comply with requests for records.
- B&C. Ensure adequate supporting documentation is submitted and retained for all disbursements.

<b>2. Budgets and Financial Statements</b>
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Budgets are not prepared in accordance with state law and the district has not submitted biannual financial statements to the State Auditor's office in a timely manner. The district's financial statements are in need of improvement, and there is little evidence the district has attempted to implement prior audit recommendations.

- A. The district's budget does not comply with state law or was otherwise insufficient as follows:
- The Board prepared a budget for the General Operating Fund; however, it only included disbursement information. A budget was not prepared for the Ambulance, Pension, and Dispatch Funds. In addition, the General Operating Fund budget did not include projected receipts, a projected ending fund balance, the prior two years actual receipts and disbursements, or a budget message or general budget summary describing the important features of the budget and major changes from the preceding years.
  - The Board's approval of the budget is not adequately documented. The budget is not signed, nor is approval documented in meeting minutes, ordinances, or resolutions. The district pays monthly bills as normally scheduled without documentation of an approved budget.
  - The monthly and year-to-date amounts for the current year reflected on the budget and presented on the district's website were inaccurate. A comparison of the budget to the financial statement prepared for the district by a Certified Public Accountant (CPA), indicates actual disbursements per the financial statements were approximately \$1.3 million more than actual disbursements per the budget. As a result, the

Board was not aware the budget had been exceeded. Corrected actual disbursements were significantly in excess of the budget.

Section 67.010, RSMo, sets specific guidelines for the format of the annual operating budget. A complete and well-planned budget, in addition to meeting statutory requirements, can serve as a useful management tool by establishing specific cost and receipt expectations for each area of district operations. A complete budget should include appropriate receipt and disbursement estimations by classification, and reasonable estimates of the ending available resources of all funds. The budget should also include a budget message and comparisons of actual receipts and disbursements for the two preceding years. A budget can also provide a means to effectively monitor actual costs by periodically comparing budgeted amounts to actual disbursements. It will also assist in setting tax levies and informing the public about district operations and current finances.

Section 67.080, RSMo, requires the board to adopt and approve budgets prior to the beginning of the applicable fiscal year and provides that no disbursements of public monies shall be made unless authorized in the budget. In addition, Section 67.040, RSMo, indicates a political subdivision shall not increase the total amount authorized for disbursement from any fund, unless the governing body adopts a resolution documenting the reasons making the increase necessary and approves or adopts a resolution or ordinance to authorize the disbursements.

- B. The district did not submit a biannual audit report to the State Auditor's office in contravention of state law. In April 2007, the district changed its fiscal year end from December 31 to June 30. The district obtained an audit for the 18 months ended June 30, 2007. Per state law, the audit report should have been submitted to the State Auditor's office by December 31, 2007. However, the district did not file a copy of the audit with the State Auditor's office until December 2008.

Section 321.690.2(1), RSMo, states that fire districts "shall cause an audit to be performed biennially. Each such audit shall cover the period of the two previous fiscal years." In addition, a copy of the audit report is required to be filed with the State Auditor's office within 6 months after the end of the fiscal year.

- C. Upon review of the district's unaudited financial statements, compiled by a CPA firm, for the year ended June 30, 2008, we noted the following problems:
- Transfers in and out are not equal between funds. Total transfers out exceeded transfers in by approximately \$3,578,500.
  - An adjustment of \$36,105 for pension expenses was shown on the financial statements in the Pension Fund and the General Operating Fund but was not posted to the trial balance.

- The due to other funds category exceeded the due from other funds category by \$83,986 on the financial statements. This was caused by an adjustment made to the Dispatch Fund, due to other funds category, but no corresponding adjustment was made to another fund.

To be of maximum assistance to the Board and adequately inform citizens of district operations and financial position, the financial statements need to be accurate. A thorough review process should be implemented to ensure financial statements are accurate and complete prior to Board approval.

- D. The audit report for the 18 months ended June 30, 2007, contained 25 audit findings and corresponding recommendations, some of which were significant (see Appendix B). The district hired a CPA firm to train the Office Manager on how to implement some of the recommendations; however, we saw very little improvement.

The district should implement the recommendations as soon as possible to ensure the district is in compliance with state laws and financial records are adequately maintained.

**WE RECOMMEND** the Board of Directors:

- A. Ensure annual budgets comply with state law and the Board's approval is documented. In addition, the Board should prepare a budget for each fund, ensure amounts are accurate, and obtain and review accurate monthly budget to actual reports.
- B. Ensure an audit is obtained and filed with the State Auditor's office as required by state law.
- C. Establish review procedures to ensure financial statements present accurate and complete financial information prior to Board approval.
- D. Ensure audit recommendations included in the CPA's audit report are implemented.

**3.**

### **Accounting Records and Procedures**

Procedures related to the allocation of property taxes and fund accounting are in need of improvement. In addition, the Treasurer's monthly report does not include budget amounts or properly reflect all transactions.

- A. The district does not properly maintain a general ledger system or maintain records of the various funds as required by state law. Ten bank accounts are maintained: General Operating Account, two General Operating Investment

Accounts, Ambulance Account, Pension Account, Dispatch Account, Payroll Account, Debt Service Account, Food Kitty Account, and a Public Relations Account. All checks are written from the General Operating Account and all monies, except some ambulance fees, are deposited to the General Operating Account. Some disbursements are coded "due to/from" a certain fund in the check register, indicating a specific expense from one of the funds; however, proper allocation of expenses to the funds is not performed. In addition, some disbursements are not coded.

A general ledger system with proper fund accounting is necessary to ensure restricted monies are spent only as allowed. A properly maintained general ledger system would have allowed the Board to identify some of the problems noted below. The Board should ensure funds are used properly and receipts and disbursements are recorded or allocated to the proper fund.

For the Ambulance, Pension, and Dispatch Funds, Sections 321.225, 321.610, and 321.243, RSMo, respectively, require funds be exclusively used for the purpose to which the tax levy was approved by the district's citizens. In addition, these sections require the funds be kept separate and apart from all other funds of the district.

- B. Property taxes received are not allocated to the applicable funds or disbursed to the proper entities on a timely basis. The district receives property taxes from St. Louis County each month for four separate tax levies: general, ambulance, dispatch, and pension. The levies are authorized by various state laws which provide general taxes be used for fire and general operations, ambulance taxes be used to provide emergency ambulance and medical services, dispatch taxes be used solely for the purpose of establishing and providing a joint central fire and emergency dispatching service, and pension taxes be paid to the pension plan of the district. The district deposits all taxes received into the General Operating Fund.
- As of May 30, 2009, the General Operating Fund owes the Dispatch Fund approximately \$79,700, all of which would be due to the dispatch services company. The audit report for the 18 months ended June 30, 2007, indicated the General Operating Fund owed the Dispatch Fund \$44,466. From July 2007 through May 2009, the district disbursed approximately \$165,800 to the dispatch services company from the General Operating Fund; however, approximately \$201,000 in dispatch taxes were received. The district could not provide documentation to show how amounts paid to the dispatch services company were determined or what time period each payment covered.

Section 321.243, RSMo, requires all dispatch taxes received be paid to the dispatch services company.

- As of May 30, 2009, the General Operating Fund owes the Pension Fund approximately \$478,500, all of which is due to the firefighters' pension plan. The district disbursed approximately \$95,300 to the pension plan in February 2008; however, the district could not provide documentation showing how this amount was calculated or what time period it actually covered. The audit report for the 18 months ended June 30, 2007, indicated the General Operating Fund owed the Pension Fund \$161,545. The district did not allocate any property tax monies to the Pension Fund from July 2007 through May 2009, but approximately \$412,300 was received. In addition, personnel from the pension plan indicated the district does not submit adequate documentation with its payments, so the monies must be held separate from the firefighters funds until proper documentation is obtained. Pension taxes are not district monies, but instead represent firefighters retirement funds which the firefighters (district employees) can invest in various pension plan options.

Section 321.610, RSMo, provides all pension taxes received be paid to the firefighters' pension plan.

- From July 2007 through May 2009, no property tax monies were allocated to the Ambulance Fund or paid to the Ambulance Account; however, approximately \$1,215,600 was received. The audit report for the 18 months ended June 30, 2007, indicated the General Operating Fund owed the Ambulance Fund \$170,906. Some disbursements from the General Operating Fund were classified as Ambulance expenses. The district's records were not adequate to determine the amount due to the Ambulance Fund as of June 30, 2008.

Section 321.225, RSMo, provides all ambulance taxes received be spent only on ambulance services.

- The district earned interest on tax receipts, but the monies were not allocated to the restricted funds. From January 1, 2007 through June 30, 2009, the district has earned approximately \$179,900 in interest income. Interest was not allocated to the various funds, but held in the General Operating Fund. Interest income earned on the Pension, Ambulance, and Dispatch Funds should be allocated to those funds and spent for those services.

To ensure monies generated from tax levies are spent in accordance with state law, taxes should be allocated to the proper funds and transferred to the appropriate bank accounts, and receipts and disbursements should be adequately allocated and tracked by fund. In addition, the district should disburse applicable

taxes received to the dispatch services company and pension plan on a timely basis including any interest earned on the monies. Timely distributions of property tax collections are important because the dispatch services company relies solely on property tax receipts to fund its operations and pension taxes are divided into the firefighters' individual pension accounts. By not disbursing monies timely, the district could be costing firefighters potential investment income.

- C. Ambulance user fees are normally deposited to the Ambulance Account; however, approximately \$60,500 was deposited to the General Operating Account during the year ended December 31, 2008. Ambulance fees are collected from private insurance companies, Medicare, and individuals for transportation in district ambulances. The ambulance fees represent user fees which should only be used for expenses of the ambulance service. To ensure ambulance fees are only used for ambulance expenses, all ambulance fees should be deposited or transferred to the Ambulance Account and/or receipted to the Ambulance Fund.
- D. The cost of the new administration building was not properly allocated between the General Operating Fund (fire services) and Ambulance Fund. In November 2008, the district purchased a building for approximately \$512,600 with Ambulance Fund monies to house management and administrative staff and hold Board meetings. Only ambulance fees are deposited to the Ambulance Fund and, as noted above, ambulance fees are required to be used for expenses of the ambulance service. Since management, administrative staff, and the Board also perform work related to the fire department operations, part of the cost of the building should have been allocated to the General Operating Fund. (See MAR finding number 5 for an additional issue regarding this transaction.)

The district should perform a cost analysis to determine how much time is spent by management, administrative staff, and the Board related to fire and ambulance services and allocate a portion of the cost of the building to the General Operating Fund. In addition, the amount allocated to the General Operating Fund should be repaid to the Ambulance Fund.

- E. The Treasurer's report does not properly reflect all district transactions for the month. The Board receives a monthly Treasurer's report during the first meeting of every month. The July 2007 Treasurer's Report included only non-property tax receipt totals for July, and year-to-date and July disbursements. It did not include cash balances or budget amounts. The district did not provide the August 2007 through February 2009 reports to our office as requested (see MAR finding number 1).

To adequately inform the Board of all financial activity and allow the Board to monitor the financial condition of the district, monthly reports summarizing all receipts, disbursements, and cash balances by fund, including year-to-date and

budgeted amounts, should be prepared and included with the monthly board minutes.

- F. The Office Manager does not prepare backups of financial and other data to prevent loss of information and ensure all essential information and computer systems can be recovered following a disaster or computer failure. In addition, the district does not have restoration procedures in place to ensure its accounting system is quickly restored and working after a disaster or computer failure.

The Office Manager's computer crashed in October 2008, and as of March 2009, the data could not be restored. The district hired an accountant for \$5,675 to reconstruct the financial information on the Office Manager's computer and prepare a financial statement (in addition to other work performed by the accountant).

Backing up data files and systems is critical for system recovery and continuity of operations. Backups are used, for example, to restore files after a computer virus corrupts the files or after a computer hard drive fails. Frequency of backups depends upon how often data changes are performed and how important those changes are. The district should determine what backup schedule is appropriate. Normally, the primary contingency strategy for computer systems and data is regular backup and secure offsite storage. Regular backup procedures decrease the amount of work required to restore data to its original condition prior to the disruption. Storing backups offsite provides another level of assurance of access to data. The district should determine how often backups should be stored offsite.

**WE RECOMMEND** the Board of Directors:

- A. Ensure a general ledger system is established which maintains records of various funds required by state law.
- B. Ensure property taxes, interest income, and disbursements are allocated to the proper funds and taxes are disbursed to the dispatch services company and the pension plan timely and for the proper amount. In addition, the Board should transfer amounts due from prior years to the appropriate funds.
- C. Ensure all ambulance fees are deposited to the Ambulance Account and used only for the expenses of the ambulance service.
- D. Perform a cost analysis to determine the allocation of the cost of the administration building between the Ambulance and General Operating Funds, and ensure the portion allocated to the General Operating Fund is repaid to the Ambulance Fund.
- E. Require monthly reports include beginning and ending cash balances, and complete and accurate monthly and yearly receipts and disbursements amounts



for each district fund. In addition, monthly reports should be reviewed by the Board and maintained with meeting minutes.

- F. Establish appropriate backup and restoration procedures.

**4.**

#### **Legal Services**

The district did not solicit proposals prior to contracting for legal services, and the total spent for legal services does not appear reasonable. In addition, a stipulation of the contract for legal services does not appear to comply with state law, and some attorney expenses appear to be paid by the district without adequate documentation. From July 2007 through February 2009, the district paid approximately \$348,800 in legal fees (\$230,000 to the legal officer and \$118,800 to the assistant legal officer).

- A. The district contracted for legal services in April and September 2007 and again in May 2009 when the contract was renegotiated, without soliciting for proposals.

While such professional services may not be subject to standard bidding procedures, the Board should consider implementing a policy that requires proposals be solicited for professional services to the extent practical. Soliciting proposals and subjecting professional services to a competitive selection allows for a more informed decision and improves the likelihood that such services are obtained from the best qualified vendor at the lowest and best cost. Documentation of the various proposals received, and the Board's selection process and criteria should be retained to support decisions made.

- B. Payments for contracted legal services appear excessive. In addition, the district did not provide documentation that a cost analysis had been performed to determine if it would be more cost effective to employ its own legal counsel rather than contracting for legal services. A comparison to four fire districts neighboring the Northeast Ambulance and Fire Protection District, found the neighboring fire district with the highest legal fees for a year expended approximately \$24,000 for legal services.

Also, in May 2009, the district renegotiated the contract for legal services, although the current contract did not expire until April 30, 2011. The new contract added lobbying services and increased annual retainers from \$60,000 to \$120,000 for the legal officer and from \$18,000 to \$60,000 for the assistant legal officer.

The Board should compare current legal costs to costs of hiring a full-time attorney to ensure the current contract is the most economical for the district. As noted in MAR finding number 1, invoices for legal services were not provided to us by the district, and as a result, we were not able to review legal costs for reasonableness.

- C. Portions of the district's new contract for legal and lobbying services do not appear to comply with Missouri law (see Anton, Raleigh & Wynne, et al. v. Wellston Fire Protection District, 671 S.W. 2d 378 (1984)). The new contract requires the district to pay the remaining balance of the annual retainer through the end of the term if the district terminates the contract for any reason other than those stated in the contract. It also requires the district to pay the remainder of the monthly retainer for the month terminated plus \$10,000 and \$5,000 for the legal officer and assistant legal officer, respectively, as compensation for severance if the district terminates the contract for reasons stated in the contract.

Case law indicates a fire district has the right to discharge a law firm, without cause, at any time, without liability under the written contract. In addition, it indicates the law firm cannot recover compensation for legal services not performed after the fire district terminates the contract.

- D. The district paid some invoices which were clearly billed by the vendor to the district's legal counsel, without documentation showing why the district would be responsible for the expenses. One invoice for \$2,000 was for flyers, and another invoice for \$1,350 was to replenish the legal officer's postage permit. The Office Manager indicated the invoices were district expenses; however, documentation to support this claim was not provided.

Public funds should be spent only on items which are necessary and beneficial to the district. The Board should require adequate documentation to ensure disbursements are for district business.

**WE RECOMMEND** the Board of Directors:

- A. Ensure professional services are obtained through a competitive selection process and documentation of the process is maintained.
- B. Ensure current procedures for procurement of legal services are the most economical for the district.
- C. Terminate the current legal services contract and establish a contract that complies with state law.
- D. Ensure supporting documentation clearly shows disbursements are for district business.

**5.**

**Disbursements**

The district does not have adequate procedures regarding the procurement of major purchases. In addition, the district's disbursement documentation, review, and reporting

procedures are lax, and some purchases do not appear to be prudent uses of district funds. Also, the district does not maintain copies of, or update, all contracts.

- A. The district did not solicit bids for some purchases made during the year ended June 30, 2008. Although the district pays annual insurance premiums of approximately \$62,700 for equipment coverage, the district has not solicited bids for insurance since prior to 2007. In addition, bids were either not solicited or not properly documented for the purchase of three portable co-oximeters costing \$15,075, collectively.

The district's bylaws require bids be solicited for all purchases of \$10,000 or more in accordance with Section 321.220, RSMo. Routine use of a competitive procurement process (advertisement for bids, phone solicitations, written requests for proposals, etc.) for major purchases ensures the district has made every effort to receive the best and lowest price and all interested parties are given an equal opportunity to participate in district business. Documentation of the various proposals received, and the district's selection process and criteria should be retained to demonstrate compliance with state law and support decisions made.

- B. Some disbursements for the year ended June 30, 2008, did not appear to be prudent and necessary uses of public funds.
- \$32,301 was spent to publish and mail approximately 12 newsletters (approximately 10,000 copies each mailing). The newsletters were sent to each registered voter in the district. Sending the newsletters to registered voters does not ensure all taxpayers receive a copy and often causes several copies to be delivered to one household. In addition, one newsletter appears to have been issued simply to introduce the legal officer and his family to the citizens.
  - \$316 was spent for flowers to various employees due to illness or death in the family.
  - \$1,500 was made payable to the petty cash fund. The Office Manager indicated this check was cashed and the money used to purchase turkeys to hand out to the under privileged; however, no documentation was provided to show this.
  - \$1,464 was spent for a graduation party for firefighters who passed the firefighter's academy.
  - \$700 was spent for a 37 inch flat screen television for the Chief Medical Officer's office. The Fire Chief indicated the television was to be used by the Chief Medical Officer to give training in her office.

- \$869 was spent for sales tax, finance charges, and late fees, on 15 of 62 disbursements reviewed. The district is tax exempt.

Public funds should be spent only on items which are necessary and beneficial to the district. District residents have placed a fiduciary trust in their public officials to spend district funds in a prudent and necessary manner. The district should ensure sales tax is not paid on purchases, and bills are paid timely to avoid finance charges and late fees.

- C. Invoices are typically not marked paid or otherwise cancelled. In addition, the acknowledgement of receipt of goods or services by the receiving party is not indicated on invoices prior to approval of the disbursement. Receipt of goods or services was not indicated for 53 of 57 applicable disbursements reviewed.

Canceling invoices and all other supporting documentation reduces the possibility of duplicate payments, and documentation of the receipt of goods or services is necessary to ensure the district actually received the items or services.

- D. The district did not prepare Internal Revenue Service (IRS) Forms 1099 Miscellaneous for payments for services for the year ended December 31, 2008, for the following:

<u>Type of Service</u>	<u>Amount</u>
Legal services	\$ 143,366
Legal services (assistant)	89,880
Computer consultant	37,688
Landscaping	1,595
Remodeling	9,300
Security guard	1,900
Security guard	600
Security guard	3,205
Security guard	2,500
Security guard	1,000

Sections 6041 through 6051 of the Internal Revenue Code require payments of \$600 or more for professional services or for services performed as a trade or business by non employees (other than corporations) be reported to the federal government on Forms 1099 Miscellaneous.

- E. The district did not enter into contracts for some services, update some contracts, and maintain copies of some contracts.
- 1) The district paid various individuals \$100 per meeting to act as security guards at board meetings without written contracts. From January 2008 through February 2009, the district paid approximately \$10,205 for these services.

Section 432.070, RSMo, requires contracts of political subdivisions to be in writing. Written contracts, signed by the parties involved, 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.

2) Some district contracts have not been updated:

- The district entered into a contract with the dispatch services company, but the district has not updated the contract since June 1971. In addition, the district could not provide a copy of the contract; however, we obtained a copy of the contract from the company. Total disbursements of approximately \$165,800 were made to the company from July 2007 through May 2009. The payments to this company are based on property taxes received by the district for the dispatch tax levy. The district levies this tax at 5 cents per \$100 assessed valuation; however, the contract signed in June 1971, allowed only 3 cents per \$100 assessed valuation. The state statute that allowed for the additional 2 cents was passed after 1971.
- The district contracted with a company to bill and collect ambulance fees in May 1998. The district had to obtain a copy of this contract from the company, since it had not maintained a copy. In addition, the contract has not been updated. The contract states the district will pay 7.5 percent on all ambulance fees collected by the company; however, the district currently pays the company 8 percent.

Current up-to-date written contracts are necessary to ensure all parties are aware of their duties, rights, and responsibilities and to provide protection to all parties. In addition, the district should maintain copies of all contracts on file.

- F. The district does not have a formal policy regarding credit card usage. While the district would not provide us with the number of credit cards it has, based on documentation reviewed, it appears the district has at least one bank credit card and three credit cards for various local vendors. For some credit card payments, the detailed invoices for each purchase charged were not retained and compared to the billing statement. District personnel indicated they could not locate the detailed invoices for the majority of the \$17,422 in total charges on the eight credit card payments reviewed. Disbursements to credit card companies totaled approximately \$60,200 from July 2007 through February 2009.

A policy which establishes levels of purchase authorization, the types and maximum amounts of allowable purchases that may be charged, approval requirements for various purchases, and documentation requirements decreases the possibility unauthorized purchases will occur.

- G. The district does not have a travel policy to address the amount to be reimbursed for meals. Also, the district does not require documentation to obtain reimbursement for meals, to show meals charged to the district credit card were for official business, and indicating when the purchase of local meals is allowable. District personnel indicated employees are reimbursed \$20 per day for meals when traveling for work purposes and some employees are allowed to charge meals to the district's credit card. Employees are not required to submit any documentation for the \$20 per day reimbursements and we noted one meal charged at the St. Louis Airport Restaurant totaled \$71. The district did not provide any documentation supporting this credit card disbursement or explaining how it was business related when the airport is 9 miles from the district's administration building. In addition, several hotel bills and airline tickets were charged to the district's credit cards; however, since the district would not provide us with further documentation as described in MAR finding number 1, we were unable to tell if the travel expenses were reasonable.

The district should adopt a travel policy to ensure the district pays for only actual and reasonable travel expenses. If the board continues to provide per diem payments, it should require the submission of documentation to support the number of meals reimbursed (the reason for traveling, the dates traveled, etc.). The policy should also specifically address when local meals can be charged to the district and the type of documentation required to clearly show the meal was necessary and for district business.

- H. The Board has not established a conflict of interest policy. Recently the district purchased a building for \$512,600, and the wife of the district's legal counsel was the real estate agent of record for the district (see Appendix C). The district did not solicit proposals for the real estate agent. The district would not provide documentation indicating the amount the real estate agent earned on the sale of the property. In the current market, real estate agents earn a commission of from 3 percent to 5 percent, which would be approximately \$15,300 to \$25,600 on this sale.

Soliciting bids or proposals helps ensure the district receives fair value for the monies spent on services. In addition, to help prevent actual or the appearance of conflicts of interest, discussions and decisions concerning situations where potential conflicts of interest exist should be completely documented so the public has assurance no official or employee of the district has benefited improperly.

**WE RECOMMEND** the Board of Directors:

- A. Perform a competitive procurement process for all major purchases and maintain documentation of proposals received to support decisions made.
- B. Ensure disbursements are necessary and prudent uses of public funds.
- C. Ensure invoices are properly canceled and require all invoices to be initialed or signed by a district employee to indicate acceptance of goods or services prior to payment.
- D. Ensure payments totaling greater than \$600 to non employees and unincorporated businesses are properly reported to the IRS. The District should file amended 1099's for past years.
- E. Enter into written agreements for all services and update all contracts. In addition, the Board should ensure copies are maintained of all contracts.
- F. Adopt formal policies and procedures for credit card usage and ensure adequate support is maintained for all disbursements.
- G. Adopt formal policies and procedures related to travel.
- H. Establish a conflict of interest policy requiring disclosures be filed with the Ethics Commission and the district to solicit proposals and document the selection process if a potential conflict exists.

**6.**

**Cellular Telephones**

The district has not developed a written policy regarding cellular telephone use or guidelines to determine whether cellular telephones are needed, how many are needed, or if they benefit the district. In addition, the district does not follow IRS regulations regarding personal use of cellular telephones. The district paid approximately \$67,200 from July 2007 through February 2009, for the use of 13 to 15 cellular telephones.

- A. The district provides cellular telephones to the Directors, Fire Chief, Assistant Chief, Chief Deputies, and Chief Medical Officer. The district allows employees to use district provided telephones for personal use, requiring such calls to be kept to a reasonable minimum; however, the Office Manager indicated cellular telephone bills are not reviewed. In March 2008, plan minutes ranged from 8 minutes to 3,834 minutes and amounts billed ranged from \$46 to \$1,055 per phone. In January and March 2008, the Fire Chief had \$1,027 and \$1,055 in monthly cellular telephone bills, respectively. In addition, the Assistant Fire Chief purchased a cellular telephone costing approximately \$300 through the district plan.

While cellular telephones can help increase employee productivity, they are also costly. Effective procedures should be established by the Board to properly monitor cellular telephone use. Additionally, the Board should periodically evaluate the cost, cellular telephone plans (to determine which plan best fits the employee needs), and distribution of cellular telephones to employees to ensure all telephones are needed and are of benefit to the district.

- B. The district does not follow IRS regulations regarding personal use of cellular telephones. Cellular telephones are considered listed items per IRS guidelines (Internal Revenue Code (IRC) Section 280F (d)(4)(A)(v)). Therefore, any personal use of the cellular telephones should be reported as income on the employee's W-2 form. Further, the IRS requires usage be classified as business or personal on an itemized statement for all cellular telephones (IRC Section 274 (d)). This information should be submitted to the employer to support the exclusion of the usage from employee wages.

Although the district maintains itemized records of cellular telephone charges, the district does not require employees to indicate the purpose of the usage as business or personal. As a result, the entire cost should be reported as wages for all employees for their respective cellular telephone.

**WE RECOMMEND** the Board of Directors:

- A. Develop a cellular telephone policy regarding use of cellular telephones, including an assessment of which employees need a cellular telephone and procedures to monitor use, and periodically review cellular telephone plans to ensure the plans best fit usage. In addition, the Board should require cellular telephone bills be reviewed to ensure personal use is kept to a minimum.
- B. Report the personal usage of cellular telephones as wages on employee W-2 forms. The District should file amended W-2 forms for past years.

<b>7.</b>	<b>Ambulance Fund</b>
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The district increased ambulance mileage fee rates without a cost study, and citizens are not billed consistently for ambulance services.

- A. The district raised the mileage rate charged for ambulance calls from \$5.25 per mile to \$7.25 per mile in April 2008. There is no documentation to support the Board's decision or its justification for this rate increase. Without a current cost study to support the rate charged for ambulance mileage, it is unclear whether the rate assessed for these services is set at an appropriate level.

Section 67.042, RSMo, provides fees may be increased if supported by a statement of the costs necessary to maintain the funding of the service.



Ambulance fees are user charges which should cover the cost of providing the related services, but rates should not be set which result in excessive fund balances. The district should perform and document a detailed review of its ambulance costs, including depreciation, and establish rates to cover the total cost of operations without generating excessive profits. Preparation of a statement of costs would allow the district to determine the rates necessary to support current and future operations, as well as provide documentation to customers of the rationale behind the rates.

- B. Some citizens are billed for ambulance fees not covered by insurance, Medicare, or Medicaid, while others are not. District Ordinance No. 86 states citizens who live within the district are not billed for ambulance service fees not covered by insurance, Medicare, or Medicaid. Those charges are written off by the district since the citizens pay taxes in the district. In April 2008, however, the district began allowing Gateway Ambulance Services to perform ambulance calls when the district is busy on other calls. Gateway bills citizens for any charges not covered by insurance, Medicare, or Medicaid. Per Gateway personnel, there was no negotiation for the district to cover these fees. In 2008, the district and Gateway performed 4,962 and 365 ambulance calls, respectively.

The district should establish procedures to ensure district citizens are charged consistently for ambulance services.

**WE RECOMMEND** the Board of Directors:

- A. Perform and document formal reviews of ambulance rates periodically to ensure receipts are sufficient to cover all costs of providing these services and to support any rate increases.
- B. Establish procedures to ensure district citizens are billed consistently for ambulance services.

<b>8. Payroll Records and Procedures</b>
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Payroll records and procedures are in need of improvement, and the cost of performing office functions has increased significantly over the last year. During the year ended June 30, 2008, the district spent approximately \$2.8 million for payroll.

- A. The Board of Directors does not approve payroll disbursements. The Office Manager receives time sheets every 2 weeks and posts hours worked to the ADP Payroll System for processing. The Board of Directors does not review the payroll register for accuracy or payroll disbursements for reasonableness since the majority of payroll is done by direct deposit.

To adequately document Board approval, the payroll register should be reviewed, and signed or initialed by the Board.

- B. Some payroll disbursements are not properly supported by time sheets which have been prepared and signed by employees or reviewed and approved by supervisors. Salaried employees (Fire Chief, Assistant Fire Chief, Chief Deputies, Chief Medical Officer) and administrative staff do not prepare time sheets. The administrative staff are hourly employees and receive some overtime pay. The Office Manager received approximately \$6,900 in overtime pay during the year ended June 30, 2008. Without time sheets, there is no supporting documentation for the actual time worked or overtime paid.

Detailed time sheets, signed by supervisors, document and support hours actually worked, provide information necessary to monitor overtime worked and leave time usage and balances, and are beneficial in demonstrating compliance with district policies and FLSA requirements. Supervisory approval is necessary to ensure time reported was actually worked. Time sheets should be signed by all employees; verified for accuracy, approved, and signed by the applicable supervisor; and filed with the Office Manager.

- C. Procedures and records regarding sick leave are in need of improvement.

- 1) The district maintains a log of sick leave that is supposed to show the balances of all employees; however, as of January 14, 2009, the log had not been updated since March 12, 2008. In addition, some employees are not included on the log. District personnel indicated the log must have been forgotten with changes in administration.

Up to date leave records are necessary to ensure employees are meeting expectations of employment, policies are uniformly followed, and potential leave and/or compensatory time liabilities are monitored. In addition, such records are needed in the event disputes arise and to demonstrate compliance with the FLSA.

- 2) One employee who left the district in June 2008 was not paid for unused sick leave totaling approximately \$29,000. The district's sick leave policy states employees are to be paid for the balance of their sick leave when they leave employment. The district could not provide documentation nor an explanation as to why the individual was not paid for the unused days.

The district should comply with its policy and pay employees for unused sick leave upon separation from the district.

- D. Procedures for withholding and disbursing payroll deductions are in need of improvement.

- 1) Payroll deductions for union dues are not paid to the Local Firefighters 2655 Union in a timely manner. From July 2007 through February 2009, the district made 11 sporadic payments of employees union dues. The union contract states dues are to be paid once a month.
- 2) Pension withholdings are not paid to the pension plan in a timely manner. District employees are allowed to obtain loans from their individual pension accounts, which must be repaid through payroll deductions. Employees can also elect to contribute additional monies each pay period to their individual pension accounts. From July 2007 through February 2009, the district only made 14 sporadic pension withholding payments during 44 payroll periods. In addition, the district does not clearly document the time period or withholdings included in the payments to the Pension Plan.
- 3) Some deductions for pension loans are not for the proper amount or properly withheld when requested. One loan payment was not withheld from the employee's check until more than a year after the date requested. Another loan payment was deducted for \$105 more than the payment amount requested for 9 months.
- 4) Employees can obtain prepaid legal services as a fringe benefit. A comparison of one invoice to the payroll register showed deductions were short by approximately \$85 to cover the cost. Although the Office Manager stated the district did not pay any portion of this fringe benefit, it appears the district pays for any differences between amounts paid and amounts deducted.

The district should establish procedures to ensure employee payroll withholdings are accurately calculated and withheld and distributed timely. These monies belong to employees and not the district. The district has a fiduciary responsibility to its employees to ensure all pension monies are transferred to the pension plan on a timely basis with proper documentation. Failure to accurately and timely withhold and distribute payroll deductions and adequately identify payments may result in non-compliance with the union contract, may affect employee pension fund balances, increases the risk of employee pension loan defaults, and may result in the district absorbing employee legal services fees.

- E. The Board paid additional compensation or bonuses to employees totaling \$51,000 (\$1,500 per employee) and \$34,000 (\$1,000 per employee) in December 2008 and 2007, respectively. Payroll records and meeting minutes provided no explanation or support for these payments. District personnel indicated these payments were Christmas bonuses.

Article III, Section 39 of the Missouri Constitution prohibits the granting of any extra compensation, fee, or allowance to employees for services already rendered.

- F. Complete personnel files are not maintained by the district for each employee. Documentation of approved salaries and adjustments to salaries, and some authorizations for voluntary deductions are not maintained in individual personnel files.

Personnel files should be maintained for each employee to provide documentation of personnel actions and to provide readily accessible work histories. The personnel files should contain documentation of the Board's authorization for the hiring of employees, the pay rate at which employees were hired, any subsequent changes in pay rate, and authorization from employees for voluntary deductions.

- G. The cost of performing office functions increased from approximately \$15,600 during the year ended June 30, 2007, to \$43,040 during the year ended June 30, 2008, to \$85,520 during the year ended June 30, 2009, excluding overtime costs. Prior to October 2007, the district had one part-time administrative employee working 20 hours per week and paid \$15 per hour, who performed all accounting and administrative duties, except for payroll which was contracted out. In October 2007, the district hired a new full-time administrative employee (Office Manager) with a starting salary of \$20 per hour. She was to perform the same duties as the part-time administrative employee. In June 2008, the district gave the Office Manager a raise of \$9 per hour, increasing her salary to \$29 per hour, and in September 2008, hired a full-time assistant office manager at a starting salary of \$15 per hour. The Office Manager and her assistant also work overtime.

Due to the numerous problems pointed out in the district's audit report for the 18 months ended June 30, 2007, including a recommendation to hire competent personnel, the district hired a CPA firm, at \$17.50 per hour, to perform bank reconciliations, make adjusting entries, prepare financial statements, and train the Office Manager how to perform these duties. The CPA was hired to complete bank reconciliations through December 2008, since none had been prepared by the Office Manager. In addition, the CPA firm established a capital asset system for the district, since it did not have one in place.

The Board needs to carefully evaluate administrative costs to ensure the increase in costs are justified by significant improvements to the accounting functions.

- H. Our review of the district's written personnel policy manual noted the following concerns:
- 1) The district's personnel policy manual does not address administrative employees, only firefighters.
  - 2) The district does not have formal procedures for hiring and dismissing employees or regarding the years of service credited to a new employee for their previous experience as a firefighter. The Board Chairman indicated the Board hires and decides the credit for previous years of

service on a case by case basis. When hiring an individual, the Board reviews applications recommended by the Fire Chief and Chief Medical Officer, and determines who to hire.

A comprehensive written policy addressing hiring and dismissing employees, and a standard formula for determining the years of service credited to the employees would provide guidance and control to ensure equitable treatment among individuals and the avoidance of misunderstandings. The years of service received determines an employee's salary and amount of leave allowed.

- 3) The district does not have a policy regarding the personal use of district equipment. The meeting minutes discussed the personal use of the district's copier by one of the directors. In addition, as discussed in MAR finding number 10, a Deputy Chief gave several individuals a ride in a district car.

A clear and concise personnel policy manual is necessary to ensure the equitable treatment of all employees. The district should include a formal written policy regarding the use of equipment, payment for overtime, and years of service granted to new personnel. Such a policy should prohibit the personal use of district vehicles due to liability issues if an accident should occur.

- I. The district does not have a written policy regarding training, nor is it in compliance with IRS guidelines regarding job-related education. In March 2009, five district employees attended emergency medical training school, but the district only paid tuition for one employee. The Chief Medical Officer indicated the district paid for only one employee to attend this school because he was the only employee who had signed up after the Chief Medical Officer was hired.

In addition, during the year ended June 30, 2008, the district sent five newly hired employees to the St. Louis Firefighters Academy. The district paid \$3,400 for each of these employees to attend the academy. Without a policy documenting when training will be provided, it is not clear all employees are treated equally.

The Office Manager indicated training costs paid for employees were not recorded on the employees' W-2 forms as a fringe benefit. IRS reporting guidelines indicate job-related education is considered an employee fringe benefit if the education provided is needed to meet the minimum educational requirements of the employee's present trade or business, or is part of a program of study that will qualify the employee for a new trade or business.

The Board should develop a written training policy which addresses when the district will pay for training and when the cost of the training will be recorded on the employee W-2 forms. Because procedures have not been established to

ensure the IRS regulations are followed, the district may be subject to penalties and/or fines for failure to report all taxable benefits.

**WE RECOMMEND** the Board of Directors:

- A. Review and approve all payroll registers prior to disbursement of payroll.
- B. Require employees to prepare and submit time sheets, which are signed by the employee, approved and signed by the applicable supervisor, and filed with the Office Manager.
- C.1. Ensure up to date sick leave records are maintained.
  - 2. Ensure employees are paid for unused sick leave upon separation from service in accordance with district policy.
- D. Ensure all payroll withholdings are disbursed to the appropriate party in a timely manner. In addition, the Board should ensure payroll deductions are withheld from employee checks timely and calculated correctly.
- E. Discontinue the practice of paying employee bonuses.
- F. Require complete personnel files be maintained for all district employees.
- G. Review increasing administration costs to ensure the current procedures are the most economical for the district.
- H. Develop personnel policies regarding administrative employees, hiring and dismissing employees, years of service, and the personal use of district property.
- I. Establish a training policy that includes when the district will pay for training, which employees are eligible for training, what type of training employees are eligible to attend, and what type of training is considered taxable compensation.

**9.**

**Website Designer/Special Projects Consultant**

The district did not solicit proposals prior to contracting for computer or consulting services. In addition, the cost of the district's computer services does not appear reasonable. The district paid approximately \$48,480 for computer and consulting services from July 2007 through February 2009.

- A. The district contracted for website design and maintenance in April 2007, to provide, build, and maintain a website for the district, without soliciting proposals. In addition, the district hired the same individual as the special project consultant in March 2008, without soliciting proposals.

While such professional services may not be subject to standard bidding procedures, the Board should consider implementing a policy that requires proposals to be solicited for professional services to the extent practical. Soliciting proposals and subjecting professional services to a competitive selection process allows for a more informed decision and improves the likelihood that such services are obtained from the best qualified vendor at the lowest and best cost. Documentation of the various proposals received, and the Board's selection process and criteria should be retained to support decisions made.

- B. Disbursements for the year ended June 30, 2008, for website design and maintenance did not appear to be necessary uses of public funds, and some appear excessive. The District paid \$8,400 to a contractor for the design of a website and approximately \$7,250 for website maintenance. The District then sent its Fire Marshal to a class costing \$378 for website design training to help the Public Relations Officer, who works on the design and maintenance of the website in addition to the contractor. The total paid for the website design and maintenance appears excessive, especially when the additional time spent by district employees is considered. Public funds should be spent only on items which are necessary and beneficial to the district.
- C. Supporting documentation for computer services and consulting disbursements was insufficient. Two invoices reviewed showed only the total amount due, not the number of hours worked or the hourly rate. One payment reviewed was not accompanied by an invoice. The only backup documentation was the copy of the check.

All disbursements should be supported by vendor invoices to ensure the obligation was actually incurred and the disbursement represents an appropriate use of funds. Invoices should include a detailed list of tasks along with the name of the individual performing the work and time spent on each task, and a summary should include the total hours by each individual and the individual's hourly rate. The Board of Directors has a fiduciary responsibility to ensure disbursements are appropriate and reasonable, and supported with adequate documentation. Without obtaining and properly reviewing adequate documentation, the Board cannot determine the validity and propriety of the disbursements.

**WE RECOMMEND** the Board of Directors:

- A. Ensure professional services are obtained through a competitive selection process and documentation of the process is maintained.
- B. Ensure disbursements are necessary.

- C. Ensure adequate supporting documentation is submitted and retained for all disbursements.

**10.**

**Election Issues**

The district appears to have used public funds to support ballot measures and candidates. In addition, the Board continues to place a bond issue on the ballot, at a continued cost to the citizens, although it continued to be defeated.

- A. Prior to the April 2009 election, it appears the district used equipment and personnel to promote a bond issue and a candidate for the Board.

- An auditor witnessed district employees using the district copier to copy maps of local precincts. In addition, an auditor witnessed several teenagers getting into a Chief Deputy's car, and was later informed by a citizen that the teenagers and the Chief Deputy had arrived in her neighborhood, around the time the auditor had seen them leaving, to hand out flyers in support of a board candidate.
- An auditor witnessed district employees spending time during normal working hours at a candidate's headquarters, which was one building over from the district's administration building, on a regular basis prior to the election.
- Several citizens indicated a fire district vehicle was seen pulling a trailer with a billboard promoting a candidate for the fire board. Some auditors observed the trailer with the billboard, but it was not attached to a vehicle at the time.
- The State Auditor's office received numerous calls regarding district employees campaigning at the polls and going door to door handing out campaign literature for the bond issue and a board candidate in different neighborhoods. In addition, an auditor witnessed a district employee at the polls handing out fliers supporting a candidate for the board.
- As discussed in MAR finding number 4, the district paid \$1,350 to replenish its legal counsel's postage permit. According to information from the United States Postal Service, the meter was used to send out "political campaign mailings".

No employee leave records were provided to the auditors to determine whether annual leave was taken for any of the instances discussed above.

Section 115.646, RSMo, provides that public funds should not be used to advocate, support, or oppose any ballot measure or candidate for public office.



- B. The Board placed a \$10.3 million bond issue on the ballot for four consecutive elections, at continued cost to the citizens, although it continued to be defeated. The district needs a 57.15 percent favorable vote for the bond issue to pass. Below is a chart showing the results of the four elections and the costs to the district:

<u>Date of Election</u>	<u>Vote</u>	<u>Number of Votes</u>	<u>Percentage of Votes</u>	<u>Election Costs</u>
April 7, 2009	Yes	1,665	41.08%	\$ 12,998
	No	2,388	58.92%	
November 4, 2008	Yes	6,800	51.24%	21,532
	No	6,470	48.76%	
August 5, 2008	Yes	1,216	39.52%	9,373
	No	1,861	60.48%	
April 8, 2008	Yes	1,385	45.34%	9,510
	No	1,670	54.66%	
Total				\$ <u><u>53,413</u></u>

The district discussed in several bond issue flyers, that the bond issue would provide the requisite means to finance the purchase of new ambulances, fire trucks, and equipment, as well as to finance the construction of a new fire house and ambulance station; however, the flyers do not explain why the projects are needed, why additional funds are needed for the projects, or any estimates of costs of the projects.

The Board should consider the costs of continually placing the bond issue on the ballot at every election, since the citizens have voted against the issue four times.

**WE RECOMMEND** the Board of Directors:

- A. Cease spending district funds to advocate, support, or oppose any ballot measure or candidate for public office.
- B. Consider the costs of continuing to place the bond issue on the ballot.

District Ordinance No. 97, which authorizes the Board of Directors to fine and ban individuals from future meetings for contempt, disorderly conduct, peace disturbance, and trespassing, does not appear to comply with state law.

Ordinance No. 97 indicates a member of the board that "engages in disorderly behavior or indulges in personalities or disturbs the peace" may be expelled from the board meeting or district premises by a majority vote of the members of the board then present at the board meeting or committee. This appears to conflict with Section 321.190, RSMo, which provides the circuit court with jurisdiction over the district and power to remove directors for good cause shown upon a petition, notice, and hearing. It does not appear the Board of Directors has this authority.

Ordinance No. 97 also provides an individual "in attendance at a regular or special board meeting or a committee there of or present on district premises, who engages in disorderly behavior or indulges in personalities or disturbs the peace, may be summarily ordered to remove themselves or be expelled from the session or firehouse or from the District premises on the sole order of the Chairman of the Board, Presiding Officer, Fire Chief, Deputy Fire Chief, a Sergeant-At-Arms, a Security Officer, a supervising employee having charge of the premises, or by a majority vote of the members of the board then present at the board meeting or committee, at will, with or without cause." In addition, the ordinance provides "any person having been twice found by the board to have violated the ordinance, shall be barred from attendance at sessions of the board and committees thereof and from the district's premises for such period as determined by a majority vote of the board, not exceeding one year."

Ordinance No. 97 gives the Board authority to actually remove, forcibly or non-forcibly, citizens from meetings for disturbing the peace. The Board does not have the discretion to determine what actions are or are not disturbing the peace. These are rights or actions ascribed to the police department or sheriff, prosecutor, and court system. In addition, Chapter 610, RSMo, known as the Sunshine Law, clearly intends for all meetings of public governmental bodies to be open to the people and not conducted in secrecy. The Sunshine Law contains carefully enumerated exceptions to an open meeting. However, it would not appear a public governmental body can pick and choose who attends its meetings. The district cannot prohibit a member of the public from attending the open portion of a public meeting.

In order to avoid possible lawsuits, the Board should ensure all ordinances comply and do not conflict with state law.

**WE RECOMMEND** the Board of Directors repeal Ordinance No. 97. In addition, the Board should ensure all ordinances comply with state law.

Procedures regarding meetings and minutes are in need of improvement:

- Reasons for closing meetings are not specifically indicated in open meeting minutes or notices posted of closed meetings. The Board regularly conducts closed meetings. While the notice of regular closed meetings refers to a district resolution, which lists 15 reasons why the Board may go into closed session, the minutes of open meetings do not indicate the specific reason for closing the meetings.
- Minutes for closed sessions are not prepared.
- The district did not document how some items discussed in closed sessions complied with state law. For example, the Board discussed and voted to send the Board of Directors, Legal Counsel, Medical Officer, and Community Service Officer to a seminar during a closed session. This was documented in the open minutes.
- Some meeting minutes do not include sufficient detail of matters discussed. The July 3, 2007, meeting minutes indicated an oral report of the Fire Chief was received by the board, but does not describe what was reported, and the June 17, 2008, meeting minutes stated a director read some correspondence, but did not state who the correspondence was from or what was included in the correspondence.

In November 2008, in a court case involving the district, R.E. et al., vs. Joseph L. Washington, et al., (2008) Case No. 07CC-3465, the Twenty-First Judicial Circuit Court ordered "Defendants shall immediately direct the removal of and shall abandon use of a universal notice of closed board meetings that is continuously posted and that identifies subjects that may be discussed in closed meetings. Defendants shall further direct that all future notices of a closed meetings shall set the specific date for the meeting, as well as the specific time, and specific place and shall refer to the specific statutory exception for the topic or topics any board member requests be discussed at the specific meeting."

The Sunshine Law, Chapter 610, RSMo, requires governmental bodies to prepare and maintain minutes of open and closed meetings. Complete and accurate minutes provide an official record of district actions and decisions. The minutes are the only official record of the actions of the district. Care should be taken to ensure minutes are complete and document discussions and specific intentions or reasons behind district decisions. Inadequate or unclear minutes can lead to subsequent confusion as to the district's intentions, possible incorrect interpretation of the district's actions by the general public or other outside entities, and the inability to demonstrate compliance with legal provisions.

Section 610.021, RSMo, allows the board to discuss certain subjects in closed meetings, including litigation, real estate transactions, bid specifications and sealed bids, personnel matters, and confidential or privileged communications with auditors. The Board should restrict discussion in closed sessions to specific topics listed in Chapter 610, RSMo, and clearly document which section of law the meeting is being closed under and how items discussed comply with state law.

**WE RECOMMEND** the Board of Directors ensure specific reasons for closing meetings are documented in the open meeting minutes as required by state law and court order and a complete and detailed record of meetings is prepared, including all discussion and reports. In addition, the Board should require minutes for closed meetings be prepared and clearly document how subjects discussed in closed session comply with state law.

**13.**

**Receipt Controls**

Bank reconciliations and deposits are not performed timely. In addition, checks are not endorsed immediately upon receipt, and petty cash procedures are inadequate. The district received approximately \$665,400 in the form of cash and checks for ambulance fees during the year ended June 30, 2008.

- A. Bank reconciliations are not performed in a timely manner. In September 2008, the district hired an accounting firm to perform monthly bank reconciliations for the year ended June 30, 2008. In January 2009, the district again hired an accounting firm to perform monthly bank reconciliations for the period July 2008 through December 2008.

Timely preparation of monthly bank reconciliations is necessary to ensure bank accounts are in agreement with accounting records and to detect and correct errors.

- B. Monies received are not deposited in a timely manner. Monies are collected each business day, but monies are deposited approximately once a week. From April 2008 through June 2008, the district made an average of four deposits per month, with an average deposit of approximately \$17,900. In addition, checks are not restrictively endorsed immediately upon receipt, but are endorsed weekly when taken to the bank for deposit.

To adequately account for collections and reduce the risk of loss or misuse of funds, checks should be restrictively endorsed immediately upon receipt and deposits made on a timely basis. Deposits should be more frequent if significant amounts of cash are collected.

- C. Petty cash procedures are in need of improvement.

- A ledger documenting receipts, disbursements, and the balance of the petty cash fund is not maintained. The Office Manager periodically requests reimbursement to replenish the petty cash fund; however, vendor receipts or other documentation are not submitted to support some requests to replenish the fund. Also, the fund is not reviewed by a person independent of the accounting process.
- A cash count of the petty cash fund on December 1, 2008, showed petty cash short by \$10. This was due to a reimbursement where an employee used their debit card at the store, and received \$10 back in cash. The Office Manager had reimbursed the employee the amount of the items purchased on the receipt, including the \$10 in cash the employee received.
- Some purchases made with petty cash did not appear to be prudent and necessary uses of public funds including candy, cookies, and a candle.

Without adequate supporting documentation, the Board cannot evaluate the necessity and reasonableness of petty cash disbursements. Good internal controls require petty cash be set at an established amount and reimbursed when expended. An imprest basis petty cash fund would improve accountability over petty cash monies. In addition, receipt and disbursement records should be maintained, and petty cash funds should only be used for their intended purpose.

**WE RECOMMEND** the Board of Directors:

- Ensure bank reconciliations are performed in a timely manner.
- Ensure monies are deposited on a timely basis and checks and money orders are restrictively endorsed immediately upon receipt.
- Ensure the petty cash fund is periodically counted and reconciled to the imprest balance by an independent person. In addition, the Board should require a ledger documenting receipts, disbursements, and the balance of the petty cash fund be maintained to properly document the financial activity of the fund, and vendor invoices or receipts be submitted to reimburse the petty cash fund.

**14.**

**Capital Assets and Vehicle Usage**

Procedures and records to account for district property are not adequate. The district does not reconcile fuel used to fuel purchased, and records are not maintained of mileage incurred on district vehicles for employee commuting purposes. In addition, commuting mileage is not included on employee W-2 forms as a fringe benefit.

- The district does not maintain current, complete, and detailed records of capital assets, including land, buildings, vehicles, equipment, and furniture. In addition,

property is not tagged for specific identification and an annual physical inventory of the property is not performed. Written authorization is not obtained from the Board for the disposition of capital assets, nor are bids solicited from the public for the disposal of items. District personnel indicated items disposed of are either given or thrown away.

Adequate capital asset records are necessary to ensure accountability for all items purchased and owned, for determining the proper amount of insurance coverage, and to provide a basis for proper financial reporting. Capital asset records should be maintained on a perpetual basis, accounting for property acquisitions and dispositions as they occur, and include a detailed description of the assets such as descriptions, make and model numbers, and asset identification numbers; the physical location of the assets; and the date and method of disposition of the assets. All capital assets should be identified with a tag or other similar device, and the district should conduct annual physical inventories and compare the results to detailed records. All capital assets should be recorded at historical cost or estimated historical cost, if actual cost is not available. Also, written authorization from the Board of Directors should be obtained for dispositions and bids should be solicited from the public for the sale of assets.

- B. During the year ended June 30, 2008, the district spent approximately \$58,600 for fuel for four cars, a pickup truck, a sports utility vehicle, two ambulances, and two fire trucks.
- District employees dispense fuel into the fire trucks and other vehicles from bulk fuel tanks located behind the fire station. The district receives periodic billings from the vendor when the tanks are filled. In May 2008, the district began maintaining a log of fuel pumped from the bulk fuel tanks. The log includes the date, driver, vehicle number, odometer reading, and gallons pumped for all district vehicles in the order fueled; however, the log is not reviewed for reasonableness or reconciled to fuel purchased.
  - The district also has fuel cards, which allow the Fire Chief, Assistant Chief, and Deputy Chiefs to fuel district assigned vehicles at local gas stations. Once a month, the fuel card vendor sends an invoice to the district. Mileage or fuel logs are not maintained for these vehicles. In addition, employees do not submit credit card slips to be compared to the monthly invoice.
  - A review of 15 fuel card transactions in October 2007 and April 2008, indicated 14 transactions made within 30 miles of the fire station. One vehicle was fueled at a local gas station within 2 miles of the fire station, instead of using one of the bulk fuel tanks located at the fire station.

Complete fuel and vehicle use logs are needed to compile data required to perform effective reviews and reconciliations. To monitor the reasonableness and propriety of fuel use and disbursements, the fuel use logs should be periodically reviewed and recorded use reconciled to fuel purchased and on hand. Failure to account for fuel use could result in the failure to detect theft or misuse. In addition, when the district purchases gasoline and diesel fuel in bulk, it receives a lower price than the price at the local gas station; therefore, the Board should require employees to utilize the bulk fuel tanks whenever possible. In addition, credit card slips are necessary to ensure amounts billed are proper and district credit cards are used only for district business.

- C. The Fire Chief, Assistant Fire Chief, and Deputy Chiefs are allowed to use district vehicles to commute between home and work; however, the amount of personal (commuting) mileage is not recorded on the employees' W-2 forms. As noted above, vehicle logs are not maintained for these vehicles.

IRS reporting guidelines indicate personal commuting mileage is a reportable fringe benefit. Clearly marked fire department vehicles are exempt from this guideline. However, district vehicles are not clearly marked. District personnel indicated the government license plates and fire department lights on the vehicles are enough to mark the vehicles as fire department vehicles; however, IRS guidelines state that for a vehicle to be clearly marked, it must have permanently affixed decals or special painting on the vehicle.

IRS guidelines also require the full value of the provided vehicle to be reported if the employer does not require the submission of detailed logs which distinguish between business and personal use. Because procedures have not been established to ensure IRS regulations are followed, the district may be subject to penalties and/or fines for failure to report all taxable benefits.

**WE RECOMMEND** the Board of Directors:

- A. Ensure complete and detailed capital asset records are maintained; annual physical inventories are performed and compared to detailed records; bids are obtained for assets sold; and proper approval is documented for the disposal of assets.
- B. Ensure vehicle fuel use is analyzed for reasonableness and complete usage logs and fuel inventory records are maintained and periodically reconciled to fuel purchased and on hand. In addition, the Board should establish procedures to require employees use the bulk fuel tanks whenever possible. Also, the Board should require all fuel card receipts be turned into the Office Manager for comparison to the invoice.
- C. Comply with IRS guidelines for reporting fringe benefits related to commuting in district-owned vehicles.

The district discontinued following the stipulations of the Firefighters Union Contract prior to the termination of the contract.

- A. The district did not honor the Firefighters Union Contract. The district entered into a contract with the Local Firefighters 2665 Union in December 1996. In June 2007, the current Board passed a resolution stating the agreement was not binding, and the district would no longer honor the contract. The Board sent a letter to employees stating the contract was not in effect, and employees would follow the new personnel manual.

The Firefighters Union Contract required the Board to give notice of termination by December 1st of any given year to terminate the contract as of December 31st of that year. Since the board gave notice in June 2007, the contract would have terminated December 31, 2007, not June 6, 2007.

- B. The Board did not pay out sick leave incentive plan monies in December 2007, as dictated by the Firefighters Union Contract. The contract has a sick leave incentive plan which requires the district on January 1st, to place \$1,000 per firefighter in an account and at year end the balance of the account is to be divided between the firefighters that had not used any sick leave during the year. In January 2007, the district placed \$1,000 for each active firefighter in an account; however, the monies were not paid out in accordance with the incentive plan. The district used the sick leave incentive monies for bonuses for all employees (see MAR finding number 8).

Based on the information noted in part A above, the Firefighters Union Contract was in effect in 2007, and the sick leave incentive plan should have been paid out in accordance with the contract.

- C. In 2007, the Board hired 14 individuals; however, only 4 had the qualifications required by the Firefighters Union Contract. The individual hired as the assistant fire chief was not certified as a paramedic as required. Others had not passed Firefighter I and II training through the St. Louis County Fire Academy or did not have a valid Missouri certification as a paramedic.

Failure to comply with the provisions of the contract could lead to future legal ramifications.

**WE RECOMMEND** the Board of Directors ensure it complies with provisions of contracts in the future.



HISTORY, ORGANIZATION, AND  
STATISTICAL INFORMATION

NORTHEAST AMBULANCE AND  
FIRE PROTECTION DISTRICT  
HISTORY, ORGANIZATION, AND  
STATISTICAL INFORMATION

The Northeast Ambulance and Fire Protection District, St. Louis County, Missouri, is an ambulance and fire district established pursuant to Chapter 321, RSMo. The Northeast Ambulance and Fire Protection District was known as the Normandy Fire Protection District prior to January 2008. The district includes 16 cities and serves approximately 45,000 citizens.

An elected board serves as the policy-making body for district operations. The board's three members serve 6-year terms. The Board and other officials during the year ended June 30, 2008, are identified below. Salaries for board members are established by state law. Members of the board are paid \$100 for each open and closed meeting (up to 4 meetings per month). In addition, the President is paid an additional \$50 per open meeting (up to 2 meetings per month), the Secretary is paid an additional \$1,000 a year, and the Treasurer is paid an additional \$1,000 per year.

<u>Fire District Board</u>	<u>Dates of Service During the Year Ended June 30, 2008</u>	<u>Compensation Paid for Year Ended June 30, 2008</u>
Joseph Washington, Board President (1)	July 2007-June 2008	\$ 9,275
Robert Edwards, Board Secretary/Treasurer	July 2007-June 2008	11,246
Robert Lee, Board member (2)	July 2007-June 2008	8,492
	<u>Dates of Service During the Year Ended June 30, 2008</u>	<u>Compensation Paid for Year Ended June 30, 2008</u>
Peter O'Neal, Fire Chief (3)	July 2007-June 2008	\$ 94,756
Robert Manuel, Assistant Fire Chief	July 2007-June 2008	86,899
Michael Garstang, Deputy Chief	July 2007-June 2008	61,276
Kevin McPike, Deputy Chief	July 2007-June 2008	86,331
Bilal Olushola, Deputy Chief	July 2007-June 2008	86,421
Airest Wilson, Deputy Chief	July 2007-June 2008	86,331
Michael Mudd, Chief Medical Officer (4)	July 2007-September 2007	22,893
Harold Conner, Chief Medical Officer	September 2007-June 2008	70,095
Marvalda Jones, Office Administrator (5)	July 2007-September 2007	10,376
Linda Love, Office Administrator	October 2007-June 2008	39,910

- (1) Joseph Washington resigned from this position in July 2009 to become the Fire Chief, and Robert Edwards took the position of Board President. The board position remains vacant.
- (2) Robert Lee was removed from the Board in July 2009, and Rhea Willis was appointed to this position.
- (3) Joseph Washington was appointed Fire Chief in July 2009, and Peter O'Neal is an Assistant Fire Chief.
- (4) Harold Conner replaced Michael Mudd as Chief Medical Officer in July 2009. Mr. Conner served until July 2008 when he retired, and the district hired Angela Elgin for this position.
- (5) Marvalda Jones' employment was terminated in September 2007. Linda Love was hired in September 2007 to fill the Office Administrator position.

In addition to the officials identified above, the district employed 33 full-time employees, and 40 part-time employees as of June 30, 2008.

Assessed valuations and tax rates for 2008 and 2007 were as follows:

ASSESSED VALUATIONS	2008	2007
Residential real estate	\$ 153,615,160	\$ 154,032,240
Agricultural real estate	16,560	16,560
Commercial real estate	27,886,752	37,820,045
Personal property	37,080,895	37,500,503
Total	\$ <u>218,599,367</u>	<u>229,369,348</u>

TAX RATES PER \$100 ASSESSED VALUATION:

	2008			
	Residential Real Estate	Agricultural Real Estate	Commercial Real Estate	Personnel Property
General Fund	1.5000	1.5000	1.5000	1.5000
Ambulance Fund	0.3000	0.3000	0.3000	0.3000
Pension Fund	0.1000	0.0900	0.1000	0.1000
Dispatch Fund	0.0500	0.0460	0.0500	0.0500

  

	2007			
	Residential Real Estate	Agricultural Real Estate	Commercial Real Estate	Personnel Property
General Fund	1.3300	1.3864	1.5000	1.5000
Ambulance Fund	0.2660	0.2710	0.3000	0.3000
Pension Fund	0.0890	0.0890	0.1000	0.1000
Dispatch Fund	0.0440	0.0410	0.0500	0.0500

## APPENDIXES

APPENDIX A  
LIST OF OUTSTANDING DOCUMENTS

The list below shows outstanding documents to which the State Auditor's office is in the process of obtaining.

- 1) Letter from the Board of Trustees of Commerce on the liquidation of funds which was read during the March 18, 2008, Board meeting.
- 2) Monthly Treasurer Reports from July 2007 through February 28, 2009.
- 3) Contract with FBD Consulting Incorporated.
- 4) The following invoices:

Vendor	Check Number	Amount	Fund	Payment Date
Alliance Medical	36005	\$ 1,104.10	Operations	8/30/2007
City Graphics	36063	2,000.00	Operations	9/10/2007
Group Health Plan	36106	46,723.66	Operations	9/21/2007
Protection 24	36169	1,320.00	Operations	10/16/2007
Angelia M. Elgin	1129	1,260.00	Operations	12/11/2007
Kelli K. DeDeaux	1125	2,161.51	Operations	12/11/2007
Aisha Ewing	1138	85.00	Operations	12/17/2007
Quick Trip	1139	282.30	Operations	12/17/2007
Airest Wilson	1150	328.25	Operations	12/18/2007
Katherine Goetzke	1154	1,603.00	Operations	12/18/2007
Sprint	1405	2,985.00	Operations	3/24/2008
NFPDIC, dues & subscriptions	1563	460.00	Operations	5/27/2008
Phillip Person	1626	15,800.00	Operations	6/17/2008
Memory Lane Auto	1652	706.00	Operations	6/27/2008
Missouri Black Caucus, training fees	1659	2,000.00	Operations	07/05/08
Shannan Patton Southwest- WC	1696	13,114.00	Operations	07/15/08
AFLAC Insurance	1816	937.98		08/19/08
Missouri Fire and Ambulance trust	1821	13,114.00	Operations	08/19/08
St. Louis Fire academy	1900	1,425.00	Operations	09/11/08
Zoll Medical Supplies	1904	53,898.38	Operations	09/15/08
Franco, fire equipment and supplies	1963	4,010.50	Operations	10/14/08

Vendor	Check Number	Amount	Fund	Payment Date
AFLAC Insurance	1992	937.98		10/21/08
Franco, fire equipment and supplies	2014	3,130.00	Operations	10/21/08
Franco, fire equipment and supplies	2079	6,956.00	Operations	11/11/08
Donny Mosley, building repairs	2103	1,500.00	Operations	11/18/08
AFLAC Insurance	2097	970.38	Operations	11/19/08
Donny Mosley, building repairs	2108	3,900.00	Operations	11/19/08
Donny Mosley, building repairs	2113	3,900.00	Operations	11/20/08
AFLAC Insurance	2165	937.98	Operations	12/09/08
Anthony Weaver, consultant fees	2201	1,425.00	Operations	12/16/08
Samuel Clemon	2186	554.00	Operations	12/16/08
J. Collins Snow	2215	600.00	Operations	12/23/08
Bernard Edwards, legal fees	1655	7,140.00	Operations	07/01/08
Bernard Edwards, legal fees	1729	5,900.00	Operations	07/29/08
Bernard Edwards, legal fees	1819	5,300.00	Operations	08/19/08
Bernard Edwards, legal fees	1919	5,900.00	Operations	09/16/08
Bernard Edwards, legal fees	1951	8,820.00	Operations	10/07/08
Bernard Edwards, legal fees	2020	7,400.00	Operations	10/21/08
Bernard Edwards, legal fees	2146	5,000.00	Operations	12/03/08
Bernard Edwards, legal fees	2210	6,000.00	Operations	12/23/08
Bernard Edwards, legal fees	36053	6,360.00	Operations	9/6/2007
Bernard Edwards, legal fees	36147	1,380.00	Operations	10/9/2007
Bernard Edwards, legal fees	1194	1,300.00	Operations	1/8/2008
Bernard Edwards, legal fees	1341	5,720.00	Operations	2/26/2008
Bernard Edwards, legal fees	1369	4,100.00	Operations	3/11/2008
Bernard Edwards, legal fees	1423	5,420.00	Operations	3/31/2008
Bernard Edwards, legal fees	1451	4,100.00	Operations	4/15/2008
Bernard Edwards, legal fees	1513	6,260.00	Operations	5/6/2008
Bernard Edwards, legal fees	1578	6,200.00	Operations	5/27/2008
Metro Law Firm, LLC	1032	7,626.32	Operations	11/7/2007
Metro Law Firm, LLC	1658	16,380.00	Operations	07/03/08
Metro Law Firm, LLC	1768	4,500.00	Operations	08/01/08
Metro Law Firm, LLC	1839	3,160.00	Operations	08/08/08
Metro Law Firm, LLC	1823	4,480.00	Operations	08/20/08
Metro Law Firm, LLC	1923	5,500.00	Operations	09/16/08

Vendor	Check Number	Amount	Fund	Payment Date
Metro Law Firm, LLC	1958	1,487.50	Operations	10/07/08
Metro Law Firm, LLC	1960	9,877.50	Operations	10/14/08
Metro Law Firm, LLC	2115	1,535.84	Operations	12/03/08
Metro Law Firm, LLC	2145	1,462.50	Operations	12/03/08
Metro Law Firm, LLC	2194	1,125.00	Operations	12/16/08
Metro Law Firm, LLC	2195	1,350.00	Operations	12/16/08
Metro Law Firm, LLC	2245	3,600.00	Operations	12/23/08
Metro Law Firm, LLC	2246	9,993.41	Operations	12/23/08
Metro Law Firm, LLC	2109	5,000.00	Operations	11/19/08
Metro Law Firm, LLC	35941	4,926.24	Operations	7/24/2007
Metro Law Firm, LLC	35942	1,660.64	Operations	7/24/2007
Metro Law Firm, LLC	35966	10,500.00	Operations	8/9/2007
Metro Law Firm, LLC	36002	4,860.00	Operations	8/27/2007
Metro Law Firm, LLC	36075	760.00	Operations	9/10/2007
Metro Law Firm, LLC	36083	2,644.82	Operations	9/11/2007
Metro Law Firm, LLC	36084	763.00	Operations	9/11/2007
Metro Law Firm, LLC	36109	1,814.00	Operations	9/25/2007
Metro Law Firm, LLC	36139	4,426.00	Operations	10/2/2007
Metro Law Firm, LLC	36140	2,867.50	Operations	10/9/2007
Metro Law Firm, LLC	36148	2,325.00	Operations	10/9/2007
Metro Law Firm, LLC	1016	1,774.00	Operations	11/2/2007
Metro Law Firm, LLC	1084	2,160.00	Operations	11/21/2007
Metro Law Firm, LLC	1089	5,583.50	Operations	11/27/2007
Metro Law Firm, LLC	1105	1,183.91	Operations	11/27/2007
Metro Law Firm, LLC	1106	747.00	Operations	11/27/2007
Metro Law Firm, LLC	1109	5,837.31	Operations	11/27/2007
Metro Law Firm, LLC	1166	5,000.00	Operations	12/27/2007
Metro Law Firm, LLC	1197	5,000.00	Operations	1/8/2008
Metro Law Firm, LLC	1198	5,000.00	Operations	1/8/2008
Metro Law Firm, LLC	1199	5,000.00	Operations	1/8/2008
Metro Law Firm, LLC	1227	5,000.00	Operations	1/15/2008
Metro Law Firm, LLC	1246	5,793.50	Operations	1/22/2008
Metro Law Firm, LLC	1269	5,516.61	Operations	2/5/2008
Metro Law Firm, LLC	1324	8,760.00	Operations	2/19/2008
Metro Law Firm, LLC	1392	8,612.44	Operations	3/18/2008
Metro Law Firm, LLC	1424	3,357.43	Operations	3/31/2008
Metro Law Firm, LLC	1471	7,940.00	Operations	4/15/2008
Metro Law Firm, LLC	1492	3,434.00	Operations	4/22/2008

Vendor	Check Number	Amount	Fund	Payment Date
Metro Law Firm, LLC	1515	6,000.00	Operations	5/6/2008
Metro Law Firm, LLC	1577	1,500.00	Operations	5/27/2008
Metro Law Firm, LLC	1629	3,000.00	Operations	6/19/2008
Metro Law Firm, LLC	35727	5,000.00	Operations	4/24/07
Anthony Weaver, consultant fees	1657	639.00	Operations	07/02/08
Anthony Weaver	1677	913.00	Operations	07/08/08
Anthony Weaver	1688	1,207.00	Operations	07/15/08
Anthony Weaver	1716	825.00	Operations	07/22/08
Anthony Weaver	1728	600.00	Operations	07/29/08
Anthony Weaver	1773	1,167.50	Operations	08/12/08
Anthony Weaver	1801	1,167.50	Operations	08/19/08
Anthony Weaver	1845	1,125.00	Operations	09/02/08
Anthony Weaver	1905	905.00	Operations	09/16/08
Anthony Weaver	1932	1,575.00	Operations	09/23/08
Anthony Weaver	2033	1,800.00	Operations	10/02/08
Anthony Weaver	1946	2,175.00	Operations	10/07/08
Anthony Weaver	1982	1,800.00	Operations	10/14/08
Anthony Weaver	1990	1,425.00	Operations	10/21/08
Anthony Weaver	2068	1,650.00	Operations	10/28/08
Anthony Weaver	2078	1,500.00	Operations	11/11/08
Anthony Weaver	2096	1,425.00	Operations	11/18/08
Anthony Weaver	2147	1,350.00	Operations	12/03/08
Anthony Weaver	2167	1,425.00	Operations	12/09/08
Anthony Weaver	2201	1,425.00	Operations	12/16/08
Anthony Weaver	35970	273.00	Operations	8/14/2007
Anthony Weaver	36001	120.00	Operations	8/27/2007
Anthony Weaver	36064	275.00	Operations	9/10/2007
Anthony Weaver	2206	1,425.00	Operations	12/23/08
Anthony Weaver	36097	402.00	Operations	9/17/2007
Anthony Weaver	36131	315.00	Operations	10/1/2007
Anthony Weaver	36167	350.00	Operations	10/16/2007
Anthony Weaver	1119	469.00	Operations	11/06/07
Anthony Weaver	1033	350.00	Operations	11/08/07
Anthony Weaver	1155	328.00	Operations	12/18/07
Anthony Weaver	1214	205.00	Operations	01/15/08
Anthony Weaver	1241	200.00	Operations	01/22/08
Anthony Weaver	1251	260.00	Operations	02/04/08
Anthony Weaver	1277	694.00	Operations	02/12/08



Vendor	Check Number	Amount	Fund	Payment Date
Anthony Weaver, website update	1314	548.00	Operations	02/19/08
Anthony Weaver	1339	450.00	Operations	02/26/08
Anthony Weaver	1344	180.00	Operations	03/11/08
Anthony Weaver	1362	327.00	Operations	03/11/08
Anthony Weaver	1391	320.00	Operations	03/18/08
Anthony Weaver	1408	180.00	Operations	03/24/08
Anthony Weaver	1426	215.00	Operations	03/31/08
Anthony Weaver	1449	375.00	Operations	04/07/08
Anthony Weaver	1450	246.00	Operations	04/07/08
Anthony Weaver	1481	246.00	Operations	04/22/08
Anthony Weaver	1493	369.00	Operations	04/22/08
Anthony Weaver	1546	328.00	Operations	05/20/08
Anthony Weaver	1569	244.00	Operations	05/27/08
Anthony Weaver	1589	426.00	Operations	06/03/08
Anthony Weaver	1613	336.00	Operations	06/10/08
Anthony Weaver	1625	330.00	Operations	06/17/08
Anthony Weaver	1646	685.00	Operations	06/24/08

5) Individual vendor receipts for each purchase below:

Payee	Check Number	Amount	Fund	Payment Date
Sear Commercial	1003	\$ 806.96	Operations	10/29/2007
Cardmember Service	1021	1,417.30	Operations	11/6/2007
Home Depot	1042	685.04	Operations	11/13/2007
Petty Cash	1062	1,500.00	Operations	11/20/2007
Grainger	1107	1,074.32	Operations	11/27/2007
Cardmember Service	1252	1,113.53	Operations	2/4/2008
Cardmember Service	1348	1,908.48	Operations	3/11/2008
Postmaster	1373	1,350.00	Operations	3/13/2008
Hilton St. Louis Airport	1412	1,464.00	Operations	3/31/2008
Cardmember Service	1454	1,999.08	Operations	4/15/2008
Cardmember Service	1505	1,955.65	Operations	4/29/2008

<u>Payee</u>	<u>Check Number</u>	<u>Amount</u>	<u>Fund</u>	<u>Payment Date</u>
Cardmember Service	1602	3,360.34	Operations	6/10/2008
Home Depot	1506	1,669.77	Operations	4/29/2008
Office Depot	1528	2,420.63	Operations	5/13/2008
Sears Commercial	1545	1,011.31	Operations	5/20/2008

- 6) W-2 forms for calendar years 2007 and 2008.
- 7) A list of Board members indicating term of office, occupation and place of employment.
- 8) Payroll registers for March, April, and May, 2008.
- 9) A list of credit cards issued to the district indicating whether they are assigned to a particular individual or if not assigned to a specific individual, where they are located, who has access, and a description of the procedures to obtain the credit cards.
- 10) Mike Garstang's spreadsheet on the Tax Pension allocation for the February 14, 2008, payment of \$95,287.16.
- 11) Minutes from February 10, 2009, through March 17, 2009, Board meetings.
- 12) Documentation on the in-house investigation regarding the tools that were stolen from the fire house.
- 13) Copies of the fuel logs from the fire house (gas and diesel).
- 14) The petition documents for all lawsuits involving the district or it's Board members from July 2007 through February 28, 2009, and any and all judgments relating to said lawsuits.
- 15) Copies of any audits or investigations of the district, it's Board members or it's employees from July 2007 through February 28, 2009 and any reports or rulings provided by these audits or investigations.
- 16) The closing documentation on the purchase of the District's Administration Building located at 7100 Natural Bridge, Beverly Hill, MO 63121.

APPENDIX B  
LIST OF FINDINGS FROM THE AUDIT REPORT FOR THE 18 MONTHS ENDED  
JUNE 30, 2007, CONDUCTED BY CHARLES BUCHANAN, CPA, PC

**NORMANDY FIRE PROTECTION DISTRICT  
SCHEDULE OF CURRENT YEAR FINDINGS AND QUESTIONED COSTS  
CONTROL FINDINGS AND RECOMMENDATIONS  
June 30, 2007**

**2007-1 Finding: Monthly Financial Statements Not Prepared**

Financial statements were not prepared and presented to the Board of Directors on a monthly basis. The financial staff was unable to provide a budget to actual revenue and expense variance report. The Board of Directors was deprived of the opportunity to manage NFPD's financial situation. By June 30, 2007 NFPD over drafted its bank accounts by \$388,417.

Recommendation: NFPD should consider utilizing software for financial reporting, utilize external support to produce the financial statements, train the staff to utilized fund accounting, and enable a monthly management review as a part of the process.

**2007-2 Finding: Accounts Payable Balances did Not Agree to General Ledger**

NFPD does not utilize the accounts payable reporting module. Accounts payable detail was not reconciled to the general ledger control account. Expenses & payables may be under/overstated by \$29,918.

Recommendation: We recommend the open invoice file be reconciled with the general ledger monthly. Differences should be investigated and resolved promptly.

**2007-3 Finding: Multiple Unrecorded Transactions and Accounting Errors in Pension Transaction Recording and Reporting**

Numerous posting errors in the money purchase (\$80,721) and 457B (\$57,113) deferred compensation plan transactions were not correctly recorded. NFPD's finance personnel did not understand the interfund impact to comply with accounting principles generally accepted in the United States of America. The pension participant receivable is misstated, and the withholding liabilities in the general fund are inaccurately recorded.

Recommendation: We recommend NFPD correct its pension withholding accounts by recording the 2005 audit adjusting journal entries and remove withholding payments paid through the ADP payroll processor.

**2007-4 Finding: Interfund Transactions, Receivable and Payables, are Mixed. This Causes Contra Indicated Amounts in the Balance Sheet**

The general fund due from the ambulance, \$-658,701, and the ambulance due to the general fund, \$1,160,878, is recorded as a negative liability, and a negative asset. Liabilities are materially misstated on the related financial statements.

Recommendation: We recommend staff analyze interfund transactions and accounts. Details should then be reconciled monthly with the general ledger accounts on a regular basis.

**2007-5 Finding: Bank Reconciliation Approval**

Currently, employees who are responsible for other cash functions also review bank reconciliations. This provides an ineffective system of cash control, because it permits the possibility of fraudulent activities due to the lack of an adequate segregation of duties.

Recommendations: An employee independent of cash receipt and disbursement activities should review the bank reconciliations for any unusual items and document their approval by initialing the form.

**2007-6 Finding: Support for Cash Disbursements Needs to be Retained**

On occasion, the District officer disposes of the vendor's invoice once the check is disbursed. This procedure leaves the District without documentary evidence to support such disbursements and could lead to duplicate payments and other problems.

Recommendations: The original invoice should always be retained as supporting documentation for any disbursement.

**2007-7 Finding: Reconciling Statements Regularly**

We noted the bank statements for the District various accounts were not reconciled to the general ledger.

Recommendations: We recommend that all of the bank accounts be reconciled monthly to the general ledger and that all reconciling items be promptly investigated and adjusted with adequate explanations.

**2007-8 Finding: Failure to make Prior Year Audit Adjustments**

The District failed to record the 2005 adjusting journal entries prepared by the external auditor, into its 2006 and 2007 unaudited trial balances. The District did not provide accounting support for the period January 1, 2006 through June 30, 2007.

The 2006 and 2007 interim financial statements were materially misstated. This created a significant increase in the activities to address significant misstatements to the financial

statements. The operations fund balance was understated from the prior year audited amount, \$1,449,527.

Recommendation: The District should arrange for the adjustments to be included in the year end 2007 audited financial statements.

**2007-9 Finding: Interprogram Receivables/Payables, Transfers Ins/Out Did Not Balance with Each Other**

The interprogram receivables/payables and transfers in/out did not agree by \$358,922.

Transactions were processed where resources were available, as opposed to the objective. The impact was to understate income/expense activity and GAAP departure.

Recommendation: We recommend staff analyze interprogram accounts.

**2007-10 Finding: Tax Receipt Deposits have not been Recorded for Ambulance, Dispatch, and Pension Funds**

We noted \$104,078, \$114,255, and \$234,121 in posting errors within property tax revenues for dispatch, pension, and ambulance fund processing. The impact is to under/over stated activity in the related funds.

Recommendation: We recommend reconciling these details with source documents and the respective general ledger accounts on a regular basis.

**2007-11 Finding: Lack of Recorded Compensated Absences**

During our audit we noted the compensated absences; \$1,386,939, expense and accrual were neither recorded, nor supported by appropriate documentation.

Recommendation: We recommend revising the accounting policy to include an accrual for the amount of accrued compensated time an employee accumulates.

**2007-12 Finding: Lack of Written Accounting and Internal Control Procedures**

The District has not developed written accounting and internal control procedures to ensure the accurate recording of all financial transactions. The written accounting procedures would detail such matters as how to record particular transactions, reference to and adherence to the implementing regulations, adequate separation of duties, review and control procedures, filing and record maintenance procedures, etc.

Recommendation: We recommend the District develop written accounting and internal control procedures to ensure compliance with the AICPA Audit and Accounting Guide (Audit Guide), Government Organizations, which provides accounting and reporting guidance. The District should seek Board approval of the accounting procedures before implementation.

**2007-13 Finding: Multiple Unrecorded Transactions and Accounting Errors in Payroll Transaction Recording and Reporting**

\$307,957 in posting errors in the payroll withholding liabilities, associated with tax and employee non-pension withholding transactions, were not correctly recorded.

Recommendation: We recommend NFPD correct its payroll withholding accounts by recording the 2005 audit adjusting journal entries and remove withholding payments paid through the ADP payroll processor.

**2007-14 Finding: Multiple Unrecorded Transactions and Accounting Errors in Dispatch Transaction Recording and Reporting**

\$138,988 in posting errors in the dispatch fund transactions were not correctly recorded. NFPD's finance personnel did not process the dispatch adjusting entries to record remittances to NCCA. The expenses are misstated.

Recommendation: We recommend NFPD acquire external accounting and financial management monitoring on a monthly basis, and at year end.

**2007-15 Finding: Valuation of Land and Plant Facilities**

\$835,127 was omitted from the complete listing of fixed assets. A complete listing of all fixed assets and their related cost are necessary in order to facilitate the computation of depreciation expense, which is required for all organizations to recognize in their financial statements under generally accepted accounting principles.

Recommendation: We recommend management compile an inventory of fixed assets by location and by fund. Normandy Fire Protection District should develop and maintain such a list; and agree it to the general ledger on a regular basis.

**2007-16 Finding: Inconsistencies in Accounting System**

During our audit, we discovered inconsistencies within the District's accounting system, specifically, the lack of consistent processing of none check transactions. Interest expense, interest income, and changes to the investment accounts had not been recorded. The payroll tax returns did not reconcile with the yearend payroll reporting.

Recommendation: We recommend the District consider hiring competent accounting personnel.

**2007-17 Finding: Lack of Eighteen Month Budget Covering the Audit Period for 2006 and 2007.**

The Normandy Fire Protection District did not provide budgeting support or guidance for the period January 1, 2006 through June 30, 2007.

Recommendation: The District shall establish a budget process.

**2007-18 Finding: Noncompliance with Cash Collateral**

The District failed to obtain collateral to cover deposits over FDIC coverage from its financial institutions. The District did not obtain depository agreements with its financial institutions and subjected its cash to unnecessary risk. The District is required to advertise for depository services biannually.

Recommendation: We recommend the District obtain depository agreements and collateral from its financial institutions.

**2007-19 Finding: Expense Reimbursements: Standard Form**

To request reimbursement for travel and other expenses, recipients either write the expenses on a plain sheet of paper, submit receipts only, or use some other inconsistent method.

Recommendations: We recommend the District implement the use of a standard form to be completed by all staff members, managers, and board members. This form along with the receipts accompanying the expenses should be required before the issuance of reimbursement payments. This practice will help to specifically identify expenses and to establish much greater accounting consistency regarding reimbursements.

**2007-20 Finding: Receiving Checks and Receipts**

We noted that there are no standard procedures for receiving checks at the office.

Recommendation: The District should consider the following procedures should to improve internal controls:

Checks should be immediately endorsed when they are received. A control list should be made of receipts when they are received and/or opened. Checks should be deposited to the bank on a timely basis. Receipts should be processed timely. Deposit slips should be matched against the list of receipts to ensure that all amounts on the receipts were deposited.

**2007-21 Finding: Accounting Staffing Needs to Perform Year-End Accounting**

Bank reconciliations for the entire year had not been prepared.

Recommendation: We suggest the Normandy Fire Protection District provide its accounting staff with the necessary training to ensure they are able to efficiently prepare the year-end accounting for the engagement.

### **2007-22 Finding: Record Storage and Retrieval**

During our engagement we noticed that accounting records frequently could not be located when needed. The causes of the problem were numerous:

- Lack of a clearly specified system for filing records
- Lack of specific policies for removing prior year records from the files to a designated storage space

The result was that employees spent nonproductive time searching for needed documents. This condition could also present problems when other government agencies need documents in support of tax returns and other reports subject to audit.

Recommendation: We recommend the District consider following steps:

- Decide on a systematic manner of filing documents, e.g., pre-numbered Company envelopes, invoices and receiving reports filed consecutively by number, vendor bills alphabetically by vendor name, journal entries by month, etc.
- Describe the system in the accounting manual or post a description on the filing cabinets or storage room so employees will know how to find and re-file documents.
- Institute use of "sign-out" cards to be filled out when a document is removed, showing who took the record. The card should be placed in the file in place of the removed document.
- Establish a policy specifying which records should be retained permanently, which records should be kept only for a given period before being destroyed, and how long the period of time should be for the various documents termination.
- Decide on when records should be removed to other storage areas to create room for needed records. For example, some companies keep the current and prior year records in the accounting department or in storage rooms on the premises and store older records in off-premises warehouses, or some files may be stored on microfiche.
- Assign personnel the responsibility to periodically clean out the files in accordance with the established policy.

### **2007-23 Finding: Supporting Documentation Needed**

We noted the District could not locate documentation that supported a majority of the additions to property and equipment over the years, including original invoices. Adequate documentation for such additions to fixed assets is critical and should be retained.

Recommendation: We suggest provisions be implemented to retain supporting documentation for purchases of fixed assets in all cases.

### **2007-24 Finding: Indirect Cost Allocation Plan**

The District receives a significant portion of its revenue for specific funds (ambulance, dispatch, pension, and debt service) in the form of restricted property tax receipts. These funds



have established restrictions for their use for certain projects and/or programs. Accordingly, these amounts have been recorded as a separate restricted class of net assets on the District's financial statements. We found the District does not allocate overhead to the multiple funds. Rather, these costs are all absorbed by the unrestricted net asset class and are not allocated to the specific funds' net assets. We believe there is a substantial cost in administering the specific funds and the general fund should be appropriately compensated.

The District has not developed a basis for allocation of overhead cost to programs and other support activities in accordance with SOP 98-2 and OMB A-110. The Program does not utilize substantiated allocation percentages to transfer all administrative and general and fund raising to specific programs. The impact is to misstate fully allocated cost to programs, and to not provide an accurate basis for cost reimbursement.

Recommendation: An allocation methodology should be developed and evidenced by allocated time or other documentation. The District should review the behavior of their overhead pool components to determine the most feasible means for gathering the documentation for overhead allocation.

#### **2007-25 Finding: Computerized Accounts Payable System should be Utilized**

The District disburses a number of transactions by electronic remittance (pension transactions), use of credit card, and checks without recording these transactions through the accounts payable system. While this procedure may be effective, it does not maintain the books on an accrual basis, tends to be inefficient, and becomes more cumbersome and error prone as transaction volume grows.

Recommendation: A practical alternative would be the use of the accounts payable system, which is a component of the computer accounting package currently in use. Under this method, a vendor's invoice is recorded in an open invoice journal upon receipt and approval. At any given point in time, a listing of open/unpaid invoices can be produced from the system. This listing should match all items in the open invoice file at all times. This procedure would make available on a virtually automatic basis a monthly list of unpaid invoices. This practice would allow for a much stronger control over the accounts payable and the amounts reflected in the financial statements.

APPENDIX C  
BROKER DISCLOSURE FORM

MISSOURI BROKER DISCLOSURE FORM



This disclosure is to enable you, a prospective buyer, seller, tenant or landlord of real estate, to make an informed choice BEFORE working with a real estate licensee.

Missouri law allows licensees to work for the interest of one or both of the parties to the transaction. The law also allows the licensee to work in a neutral position. How the licensee works depends on the type of brokerage service agreements involved. Since the sale or lease of real estate can involve several licensees it is important that you understand what options are available to you regarding representation and to understand the relationships among the parties to any transaction in which you are involved.

Missouri laws require that if you want representation, you must enter into a written agreement. This may or may not require you to pay a commission. You do not need to enter into a written agreement with a transaction broker unless you intend to compensate this licensee. These agreements vary and you may also want to consider an exclusive or nonexclusive type of relationship.

If you choose not to be represented by an agent, the licensee working with you may be working for the other party to the transaction.

CHOICES AVAILABLE TO YOU IN MISSOURI

**Seller's or Landlord's Limited Agent**

Duty to perform the terms of the written agreement made with the seller or landlord, *to exercise reasonable skill and care for the seller or landlord, and to promote the interests of the seller or landlord* with the utmost good faith, loyalty and fidelity in the sale, lease, or management of property.

Information given by the buyer/tenant to a licensee acting as a Seller's or Landlord's Limited Agent will be disclosed to the seller/landlord.

**Buyer's or Tenant's Limited Agent**

Duty to perform the terms of the written agreement made with the buyer or tenant, *to exercise reasonable skill and care for the buyer or tenant and to promote the interests of the buyer or tenant* with the utmost good faith, loyalty and fidelity in the purchase or lease of property.

Information given by the seller/landlord to a licensee acting as a Buyer's or Tenant's Limited Agent will be disclosed to the buyer/tenant.

**Sub-Agent (Agent of the Agent)**

Owes the same obligations and responsibilities as the Seller's or Landlord's Limited Agent, or Buyer's or Tenant's Limited Agent.

**Disclosed Dual Agent**

With the written consent of all parties, represents both the seller and the buyer or the landlord and the tenant.

*A Disclosed Dual Agent may disclose any information to either party that the licensee gains that is material to the transaction.*

A dual agent may not disclose information that is considered confidential, such as:

- Buyer/Tenant will pay more than the purchase price or lease rate
- Seller/Landlord will accept less than the asking price or lease rate

- Either party will agree to financing terms other than those offered
- Motivating factors for any person buying, selling or leasing the property
- Terms of any prior offers or counter offers made by any party.

### Designated Agent

Acts as your specific agent, whether you are a buyer or tenant, or seller or landlord. When the broker makes this appointment, the other real estate licensees in the company do not represent you.

There are two exceptions with both resulting in dual agency:

1. The agent representing you as a buyer or tenant is also the agent who listed the property you may want to buy or lease.
2. The supervising broker of two designated agents becomes involved in the transaction.

### Transaction Broker

Does not represent either party, therefore, does not advocate the interest of either party.

A transaction broker is responsible for performing the following:

- Protect the confidences of both parties
- Exercise reasonable skill and care
- Present all written offers in a timely manner
- Keep the parties fully informed
- Account for all money and property received
- Assist the parties in complying with the terms and conditions of the contract
- Disclose to each party of the transaction any adverse material facts known by the licensee
- Suggest that the parties obtain expert advice.

A transaction broker shall not disclose:

- Buyer/Tenant will pay more than the purchase or lease price
- Seller/Landlord will accept less than the asking or lease price
- Motivating factors of the parties
- Seller/Buyer will accept financing terms other than those offered.

A transaction broker has no duty to:

- Conduct an independent inspection of, or discover any defects in, the property for the benefit of either party
- Conduct an independent investigation of the buyer's financial condition.

### Other Agency Relationships

Missouri law does not prohibit written agency agreements which provide for duties exceeding that of a limited agent described in this pamphlet.

This brokerage authorizes the following relationships:

- Seller's Limited Agent
- Landlord's Limited Agent
- Buyer's Limited Agent
- Tenant's Limited Agent
- Sub-Agent
- Disclosed Dual Agent
- Designated Agent
- Transaction Broker
- Other Agency Relationship

Broker or Entity Name and Address Mary One Johnson Home Team Realty LLC 1911 Park Avenue St. Louis, Mo. 63104	
Client <i>Joseph J. Walton</i>	Date <i>09/24/08</i>
Sales Associate <i>Cheri Johnson / Janita Walton</i>	Date <i>09/24/08</i>

Prescribed by the Missouri Real Estate Commission as of January, 2005. This additional format prescribed October 2007

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This document has legal consequences.  
If you do not understand it, consult your attorney.  
Form # 2125 2/08

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**BUYER'S EXCLUSIVE LIMITED AGENCY EMPLOYMENT CONTRACT**

Buyer hereby retains the undersigned REALTOR®, for a period beginning \_\_\_\_\_ and ending \_\_\_\_\_, inclusive, as Buyer's exclusive limited agent for the purpose of locating real property as described below and to assist in negotiating terms and conditions for the purchase (hereinafter to include purchase, lease or obtain an option thereon). The general description of property being sought is \_\_\_\_\_

In consideration of Buyer's agreement set forth above, REALTOR® agrees to use reasonable effort and diligence to locate property acceptable to Buyer and to assist in negotiating terms and conditions for the purchase of said property. Unless Buyer requests otherwise, REALTOR® shall not be obligated to search for any properties other than those listed in the Mid American Regional Information Systems (hereinafter referred to as "MLS property"). REALTOR® shall disclose in all offers to purchase property on behalf of Buyer, its representation of Buyer and the source or sources of compensation.

**Brokerage Fee:** This is an exclusive agency agreement. If Buyer contracts to purchase a property during the term of this agreement, whether or not REALTOR® introduced the property to Buyer, REALTOR® is entitled to compensation as follows:

If compensation is offered by the seller or the listing company, REALTOR® will accept that compensation. However, REALTOR® shall not be obligated to show properties to Buyer if compensation offered to REALTOR® is not acceptable. When offered compensation is less than REALTOR®'s minimum of \_\_\_\_\_, Buyer will pay the difference. Compensation is due and payable at closing.

If within 120 days after the end of this agreement, Buyer contracts to purchase a property which is introduced to Buyer during the term of this agreement, REALTOR® is entitled to the fee stated above; however, no compensation is owed if Buyer enters into a bonafide Buyer's Exclusive Limited Agency Employment Contract with another REALTOR® during the 120 day period and compensation is paid to the other REALTOR®. Buyer acknowledges that REALTOR® is not considered an agent of the seller or listing company solely by accepting compensation from the seller and/or listing company.

**Other Potential Buyers:** Buyer understands that other potential buyers may consider, make offers on, buy, or lease through REALTOR® the same or similar properties as Buyer is seeking to purchase. Buyer consents to REALTOR®'s representation of and/or working with other such buyers before, during and after the expiration of this agreement.

**Representations:** Buyer acknowledges that REALTOR® is not acting as an attorney, tax advisor, lender, surveyor, building inspector, termite inspector, structural engineer or architect. Buyer should seek assistance from other professionals as deemed appropriate by Buyer. "Buyer acknowledges that Buyer should contact law enforcement officials for information pertaining to whether registered sex offenders or other convicted criminals reside in the area."

**Relationship Limits:** This agreement, according to Missouri law, establishes an agency relationship and therefore, prohibits (disallows) the Designated Broker (REALTOR®) and/or affiliated licensees from acting as a transaction brokerage. Buyer authorizes REALTOR® to offer subagency and to pay another broker or subagent a portion of the commission.

**Broker Disclosure Form:** Buyer acknowledges receipt of the Broker Disclosure Form prescribed by the commission (Missouri Real Estate Commission) by either a) on or before the signing of the (this) buyer's agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first.

**Dual Agency:** Buyer acknowledges having read the "Dual Agency" provisions on the reverse side of this form. Buyer consents to the possibility of a dual agency relationship and its potential conflict of interest as described in the Missouri Broker Disclosure Form. Dual agency will not affect the compensation as described above.

**Duties and Obligations:** Buyer acknowledges having read the "Duties and Obligations of Limited Agency" on the reverse of this form.

*Note: If a designated agent is appointed in accordance with this agreement, dual agency does not occur unless one of the two exceptions described in the "designated agent" paragraph of the Missouri Broker Disclosure Form occurs. Buyer acknowledges that broker may also represent sellers under agency agreements.*

In the event of litigation between the parties, the prevailing party shall recover, in addition to damages or equitable relief, the cost of litigation, including reasonable attorneys' fees.

If, as authorized in the Missouri Broker Disclosure Form, the REALTOR® (Designated Broker) authorizes its licensees to act as Designated Agents, Jamita Walton is appointed by the REALTOR® (Designated Broker) as Buyer's designated agent, as described in the Missouri Broker Disclosure Form. In the event the designated agent is not available at any given time, any of the following agents associated with REALTOR® are hereby appointed by REALTOR® (Designated Broker) to represent the Buyer, without further notice:  
Chris & Deborah Johnson

If a designated agent is appointed, the Designated Broker must sign this agreement as authorized agent.

X Joseph L. Ward X DATE  
BUYER

BUYER DATE

Maryone Johnson Home Team Realty, LLC  
REALTOR® (Company)

Mary One Johnson 9/24/08  
Authorized Agent DATE



**MINIMUM BROKERAGE SERVICES AS ADAPTED FROM SECTION 339.780.7 RSMo**

Pursuant to Missouri Law, Broker, through its designated broker and/or through one or more affiliated licensees, shall provide at a minimum, the following services:

1. Accepting delivery of and presenting to the buyer or customer's offers and counteroffers to buy, sell, or lease property that buyer seeks to purchase or lease;
2. Assisting the Buyer or Customers in developing, communicating, negotiating, and presenting offers, counteroffers, and notices that relate to the offers and the counteroffers until the lease or purchase agreement is signed and all contingencies are satisfied or waived; and
3. Answering Buyer or customer questions relating to the offers, counteroffers, notices, and contingencies.

**DUTIES AND OBLIGATIONS OF LIMITED AGENCY AS ADAPTED FROM SECTION 339.740 RSMo**

1. A licensee representing a buyer or tenant as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations:
  1. To perform the terms of any written agreement made with the client;
  2. To exercise reasonable skill and care for the client;
  3. To promote the interest of the client with the utmost good faith, loyalty, and fidelity, including:
    - a. Seeking a price and terms which are acceptable to the client, except that the licensee shall not be obligated to seek other properties while the client is a party to a contract to purchase property or to a lease or letter of intent to lease;
    - b. Presenting all written offers to and from the client in a timely manner regardless of whether the client is already a party to a contract to purchase property or is already a party to a contract or a letter of intent to lease;
    - c. Disclosing to the client adverse material facts actually known or that should have been known by the licensee;
    - d. Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;
  4. To account in a timely manner for all money and property received;
  5. To comply with all requirements of sections 339.710 to 339.860, subsection 2 of section 339.100, and any rules and regulations promulgated pursuant to those sections; and
  6. To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes or regulations.
2. A licensee acting as a buyer's or tenant's agent shall not disclose any confidential information about the client unless disclosure is required by statute, rule, or regulation or failure to disclose the information would constitute a misrepresentation or unless disclosure is necessary to defend the affiliated licensee against an action of wrongful conduct in an administrative or judicial proceeding or before a professional committee. No cause of action for any person shall arise against a licensee acting as a buyer's or tenant's agent for making any required or permitted disclosure.
3. A licensee acting as a buyer's or tenant's agent owes no duty or obligation to a customer, except that the licensee shall disclose to any customer all adverse material facts actually known or that should have been known by the licensee. A buyer's or tenant's agent owes no duty to conduct an independent investigation of the client's financial condition for the benefit of the customer and owes no duty to independently verify the accuracy or completeness of statements made by the client or any independent inspector.
4. A buyer's or tenant's agent may show properties in which the client is interested to other prospective buyers or tenants without breaching any duty or obligation to the client. This section shall not be construed to prohibit a buyer's or tenant's agent from showing competing buyers or tenants the same property and from assisting competing buyers or tenants in attempting to purchase or lease a particular property.
5. A client may agree in writing with a buyer's or tenant's agent that other designated brokers may be retained and compensated as subagents. Any designated broker acting on the buyer's or tenant's behalf as a subagent shall be a limited agent with the obligations and responsibilities set forth in subsections 1 to 4 of this section.

**DISCLOSED DUAL AGENCY AS ADAPTED FROM SECTION 339.750 RSMo**

1. A licensee may act as a dual agent only with the consent of all parties to the transaction. Consent shall be presumed by a written agreement pursuant to section 339.780.
2. A dual agent shall be a limited agent for both the seller and buyer or the landlord and tenant and shall have the duties and obligations required by sections 339.730 and 339.740 unless otherwise provided for in this section.
3. Except as provided in subsections 4 and 5 of this section, a dual agent may disclose any information to one client that the licensee gains from the other client if the information is material to the transaction unless it is confidential information as defined in section 339.710.
4. The following information shall not be disclosed by a dual agent without the consent of the client to whom the information pertains:
  1. That a buyer or tenant is willing to pay more than the purchase price or lease rate offered for the property;
  2. That a seller or landlord is willing to accept less than the asking price or lease rate for the property;
  3. What the motivating factors are for any client buying, selling, or leasing the property;
  4. That a client will agree to financing terms other than those offered; and
  5. The terms of any prior offers or counter offers made by any party.
5. A dual agent shall not disclose to one client any confidential information about the other client unless the disclosure is required by statute, rule or regulation or failure to disclose the information would constitute a misrepresentation or unless disclosure is necessary to defend the affiliated licensee against an action of wrongful conduct in an administrative or judicial proceeding or before a professional committee. No cause of action for any person shall arise against a dual agent for making any required or permitted disclosure. A dual agent does not terminate the dual agency relationship by making any required or permitted disclosure.
6. In a dual agency relationship there shall be no imputation of knowledge or information between the client and the dual agent or among persons within an entity engaged as a dual agent.