



LOUISIANA LEGISLATIVE AUDITOR  
DARYL G. PURPERA, CPA, CFE

March 12, 2014

The Honorable John I. Shaddinger, Jr., Mayor  
City of Westwego  
419 Avenue A  
Westwego, Louisiana 70094

Dear Mayor Shaddinger:

My advisory services staff reviewed certain matters related to the operations of the City of Westwego's (City) Ernest J. Tassin Senior Center (Center), including (1) a cruise organized through the Center; (2) controls over Center personnel and payroll; (3) the transfer of funds to a nonprofit organization; and (4) controls over the ethical conduct of officials and employees. Our work was based on information received from the Metropolitan Crime Commission and other sources. Below are the questions that were addressed, along with our findings and recommendations. Management's response is included in Appendix A.

**1. Was the Center-organized cruise compliant with the Center's mission and related policies and procedures?**

Neither the City nor the Center had formal policies and procedures in place to allow us to make an independent determination whether procedures were followed for this cruise and if this type of activity should be organized/sponsored by the City and Center.

In January 2013, the Center coordinator accompanied seniors on a Latin American cruise. Although the City obtained liability insurance, we were informed that the City did not pay for the cruise and the Center coordinator used his vacation leave for the trip.

In addition to not having policies and procedures for the Center, the City has not established a mission specific to its Center that could provide additional guidance to management. However, the Center has been subject to the overall mission and policies prescribed by the Governor's Office of Elderly Affairs (GOEA). The GOEA policies do not specifically prohibit Center-sponsored cruises. The GOEA policies provide for a wide range of activities to be conducted and appear to allow broad interpretation of activities that are allowable and those that are not. Although suggested by GOEA policy, the Center does not have detailed goals, objectives, and action plans of its own to guide the Center's activities and operations. Without more direct guidance, the Center runs the risk of conducting activities that are outside the intended mission/purposes of the GOEA and the City.

We noted that in addition to the cruise, the Center organized excursions in 2012 to over two dozen venues, including shopping malls, casinos, restaurants, and entertainment sites in and out of state. Again, without a clear mission and specific policies and procedures to guide Center operations, there are no standards clearly establishing which activities are allowable and which are not.

We also understand that the Jefferson Council on Aging (JCOA) recently chose not to renew a contract for services with the City because they felt the missions of the JCOA and the Center were not compatible. We were initially informed that, as a result, the City (and the Center) could lose \$40,000 in state funding that flows from the GOEA through the JCOA. City officials later informed us that they had acquired funding from the Parish and with continued provision of meals from the JCOA, such losses would be largely offset. However, an official with the GOEA suggested that even though state funding may be lost, the Center should still follow the mission and policies prescribed by the GOEA, as this state agency serves as the oversight entity for the operations of senior centers.

Recommendations:

- The mayor and council should work together to identify the allowable and prohibited activities of the Center and consider formalizing these activities into a legal instrument (e.g., resolution) that will be presented, discussed, and approved in an open meeting.
- The Center coordinator should work with the mayor and council to ensure that they develop a mission, goals, objectives, action plans, and policies and procedures that will provide clear guidance as to which Center operations are allowable and which are prohibited. Officials should consider conferring with the GOEA for guidance.
- Since the JCOA did not renew its contract with the City, the mayor should consider consulting with legal counsel and the GOEA to fully assess the legal and financial impact of independently operating the senior center.
- During the City's budgeting process, the mayor and council should consider the potential loss of state funding and its impact on providing services to Westwego's senior population (estimated at 2,000 by the mayor). During this budgeting process, the council should review all Center activities to ensure they are serving a public purpose for which the Center was established.

## **2. Does the City of Westwego have adequate controls over Center personnel and payroll?**

In determining that the City did not have adequate controls, we found:

- Contrary to City policy, which limits the accumulation of compensatory overtime to 240 hours, City records showed that the Center coordinator had a balance of 625 compensatory hours in 2012. Upon further investigation, we determined that the balance had reached 794.42 compensatory hours by May 2013. Upon approval by the mayor, the Center coordinator was paid \$7,634.36 for 554.42 hours of accumulated compensatory time in May 2013. According to a City official, this payment was made to bring the coordinator's compensatory balance in to compliance with policy [a policy that staff did not enforce which allowed the accumulation of 554.42 (794.42-240) excess compensatory hours].

We noted that the mayor did not document his supervisory review of timecards prepared by the Center coordinator. That is, there was no documentation on the timecards to indicate that the hours shown as worked were reviewed by the mayor for accuracy, reasonableness, or compliance with policy. We were informed that there is no requirement of City supervisors to document their review and approval of timecards.

- The City's organizational chart for all operations of the City, including the Center, was not up-to-date. An updated organizational chart could lessen any confusion among employees related to their reporting and supervisory relationships.
- Written job descriptions for Center personnel as well as other City employees were not up-to-date. Without current written descriptions for the duties and responsibilities of the Center coordinator and staff, they might become confused or uncertain as to what job activities are required of them. In addition, supervisors may have difficulty evaluating whether the actions of a subordinate are consistent with job requirements.

Recommendations: The mayor should:

- Consult with legal counsel regarding the compensatory hours that were accumulated in excess of City policy and paid to the Center coordinator.
- Ensure that all employees are in compliance with City policies on overtime and compensatory time.

- Ensure that all supervisors document approval of their subordinates' time cards to indicate that they have been reviewed for accuracy, reasonableness, and compliance with City policy.
- Develop and maintain an up-to-date organizational chart for the Center (and all other City departments) showing the job title and name of person for each position.
- Develop and maintain detailed job descriptions to ensure employees and their supervisors have a clear understanding of their duties and responsibilities.

**3. Was the City's transfer of Center funds to a nonprofit organization done in accordance with the Louisiana Constitution?**

The City transferred public funds to Louisiana Kids, Inc. without benefit of a written cooperative endeavor agreement. Therefore, the City did not show that the transfer met the Louisiana Attorney General's "three prong test" for the use of public funds. As a result, the City may have violated Article VII, Section 14(A) of the Louisiana Constitution of 1974.

In 2012, the mayor and a council member signed a \$4,374 check issued payable to Louisiana Kids, Inc., a nonprofit organization in which the Center coordinator is involved and listed as its state co-director and executive director (see item 4 for discussion of possible ethics violation). The check was drawn on a City bank account in which the Center coordinator was depositing donated funds and using the funds to purchase gifts and to pay for meals for the seniors. We were informed that in an effort to avoid using these City funds to purchase gifts, the City's financial consultant suggested to the mayor that the donated funds be transferred to a nonprofit organization which could legally make such purchases for the seniors. According to the mayor, he chose Louisiana Kids because he was familiar with the organization and its director (i.e., the Center coordinator) and felt this familiarity would help him get the money transferred in the quickest way possible.

The Center coordinator told us that he, in his role as executive director of Louisiana Kids and Center coordinator, spent the money on seniors for such items as Angola Prison rodeo tickets, lockets, necklaces, and thermal coffee mugs. In addition, he informed us that subsequent donations for the benefit of the seniors have been received from others and deposited into the Louisiana Kids bank account. As of September 6, 2013, according to documents provided by the Center coordinator, the remaining funds in the Louisiana Kids account for the benefit of seniors totaled approximately \$1,027.

The Attorney General (AG), following the Louisiana Supreme Court's decision in *Board of Directors of the Industrial Development Board of the City of Gonzales, Louisiana, Inc. v. All Taxpayers, Property Owners, Citizens of the City of Gonzales, et al.*, 2005-2298 (La. 9/6/06),

938 So.2d 11, 20, opines that in order for an expenditure or transfer of public funds to be permissible under Article VII, Section 14(A) of the Louisiana Constitution of 1974, the entity spending/transferring the funds must have the legal authority to do so and show that it met a “three prong test.” Specifically, the entity must be able to show:

1. a public purpose for the expenditure or transfer that comports with the governmental purpose for which the public entity has legal authority to pursue;
2. that the expenditure or transfer, taken as a whole, does not appear to be gratuitous; and
3. that the public entity has a demonstrable, objective, and reasonable expectation of receiving at least equivalent value in exchange for the expenditure or transfer of public funds.

For a public purpose, the City is allowed to engage in cooperative endeavors with any private association (as long as the provisions listed above are met). However, according to AG Opinion No. 12-0054, “[e]ven though the expenditure of public funds and transfer of public property is being done pursuant to a cooperative endeavor agreement, the expenditure still must be examined in light of Article VII, Section 14(A).”<sup>1</sup>

Recommendations: The mayor and the council should:

- Consult with legal counsel regarding the legality of the transfer of funds to Louisiana Kids.
- Ensure that the detailed accounting records (e.g., receipts and invoices) supporting all expenditures of City funds are obtained from Louisiana Kids. These records should be reviewed to verify that Louisiana Kids spent the transferred funds as directed/intended by the City.
- Develop a clear, written policy consistent with applicable law regarding how donations may be solicited, obtained, and used. The policy should also address how the City will account for the use of those funds and set forth the circumstances in which a cooperative endeavor agreement will be required. A valid cooperative endeavor agreement should be developed, reviewed, and approved by the council prior to the transaction(s) taking place.

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<sup>1</sup> Article VII, Section 14(A) provides, in pertinent part, “Except as otherwise provided by this constitution, the funds, credit, property or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private.”

**4. Does the City have adequate controls in place to help ensure the ethical conduct of its public officials and employees?**

In determining that the City did not have adequate controls, we found:

- The City did not have a written Ethics Policy nor did the City have any other documentation that provided specific ethical guidance to its officials and employees.
- City officials and employees were not required to sign an ethics statement attesting that they understand what is ethically acceptable and that they will abide by ethical standards, including the Louisiana Code of Governmental Ethics.
- As mentioned previously (see item 3), the City transferred \$4,374 to Louisiana Kids, a nonprofit organization, whose executive director is the Center coordinator. Since the Center coordinator is a paid employee of the City and also serves as the executive director of Louisiana Kids, this relationship appears to have created a conflict of interest that may violate the Louisiana ethics law. La. R.S. 42:1113 provides, in part, that no public servant shall bid on or enter into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the agency of such public servant.
- The Center coordinator informed us that people occasionally gave him money personally as a reward for his assistance to the seniors, and that he kept these personal donations in a folder (at the Center) and only spent them on the Center. Subsequently, he told us that he did not spend any of these donations. The Center coordinator further stated that he accepted money that was “found on the floor” of the Center or was personally given to him for such things as his birthday and lunch.

We advise the City that the Center coordinator’s (or any other public official or public employee’s) acceptance of monies donated to him personally for performing his job may violate the state’s ethics law. La. R.S. 42:1111(A)(1) states, “No public servant shall receive anything of economic value, other than the compensation and benefits to which he is entitled from his governmental employer, for the performance of the duties and responsibilities of his office or position.”

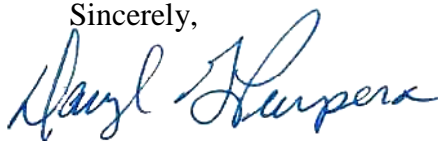
Recommendations: The mayor and council should:

- Consult with legal counsel and the Louisiana Board of Ethics regarding the Center coordinator accepting personal donations.

- Consult with legal counsel and the Louisiana Board of Ethics regarding the Center coordinator's relationship with Louisiana Kids and the possible conflict of interest. If the City continues to transfer money to Louisiana Kids, the City should document the public purpose of such support in a valid written cooperative endeavor agreement that should require the director to provide an annual accounting of funds received from the City.
- Ensure that the coordinator is not using Center equipment for Louisiana Kids activities (e.g., Center vans), unless such use is approved by legal counsel and included in a valid written cooperative endeavor agreement.
- Develop and adopt a formal Ethics policy for the City.
- Ensure that an ethics letter/statement is prepared and provided to each City official and employee which gives examples of prohibited actions under specific provisions of the state's Ethical Standards for Public Servants [including La. R.S. 42:1111(A) and 42:1112].
- Ensure that City officials and employees annually sign the ethics letter/statement indicating they understand and will abide by it. A signed copy should be placed in their personnel folder.
- Ensure that all employees continue to receive the annual ethics training as required by state law (R.S. 42:1170).

We encourage City officials to consider our recommendations and work together to resolve the issues presented. My staff will be monitoring the resolution of these issues. If you have any questions about the assessment, please call Mike Battle or Mike Cragin at 225-339-3800.

Sincerely,



Daryl G. Purpera, CPA, CFE  
Legislative Auditor

DGP/mk

## APPENDIX A

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### Management's Response





**JOHN "JOHNNY" I. SHADDINGER, JR.**  
**MAYOR**

mayor@cityofwestwego.com

CITY OF WESTWEGO  
419 AVENUE A  
WESTWEGO, LA 70094

PHONE: (504) 347-5745  
FAX: (504) 341-8941

Mr. Daryl Purpera  
Louisiana Legislative Auditor  
P.O. Box 94397  
Baton Rouge, Louisiana 70804-9397

February 25, 2014

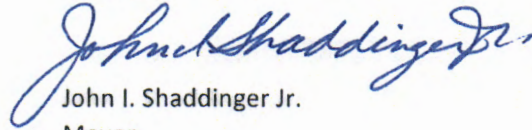
Dear Mr. Purpera,

In response to your findings and recommendations I offer the following;

- (1) I will work with the Center coordinator and council to develop policies and goals to provide guidance for Center operations. When completed, the recommendations will be presented to The Westwego City Council at an open meeting for adoption. The City of Westwego has always provided the majority of costs to operate the Center and did include all costs necessary to continue its operation when adopting the 2014 budget.
- (2) The Center coordinator accumulated compensatory hours in excess of the maximum allowed by The City policy. When the error was discovered, he was immediately paid for the excess. We have implemented procedures to ensure that the error is not repeated. Although most timecards are approved and that approval is documented, there are some supervisors and employees whose timecards do not reflect documentation of approval. We will document approval of all timecards in the future. We will create an organizational chart for City employees. We will update the written job descriptions for City employees.
- (3) The transfer of funds to Louisiana Kids was done to correct the error of depositing the funds into City accounts rather than that of a non-profit organization. We will develop a written policy to address how donations may be solicited, obtained and used. Cooperative Endeavor Agreements will be developed and approved by The City Council in appropriate circumstances. The detailed accounting records supporting the expenditures by Louisiana Kids for the benefit of the Center will be reviewed to verify that all donations were properly utilized.
- (4) The Louisiana code of ethics prohibits any employee from accepting personal donations. The Center's current coordinator has no relationship with Louisiana Kids. We will develop a formal Ethics policy for the City which will include a requirement that employees adhere to The Louisiana code of ethics and sign a statement annually indicating that they understand and will abide by it. We will continue to collect the documentation that all employees receive the annual ethics training.

We appreciate your recommendations and will continue to diligently work toward improving our system of internal controls.

Sincerely,

A handwritten signature in blue ink, reading "John I. Shaddinger Jr.", with a stylized flourish at the end.

John I. Shaddinger Jr.

Mayor