

INVESTIGATIVE AUDIT REPORT

GLADEVILLE UTILITY DISTRICT

JANUARY 1, 2005, THROUGH APRIL 30, 2008



State of Tennessee



**Comptroller of the Treasury
Department of Audit
Division of Municipal Audit**



STATE OF TENNESSEE

COMPTROLLER OF THE TREASURY

Justin P. Wilson

Comptroller

STATE CAPITOL

NASHVILLE, TENNESSEE 37243-0260

PHONE (615) 741-2501

April 15, 2009

Members of the Board of Commissioners
Gladeville Utility District
3826 Vesta Road
Lebanon, TN 37090

Ladies and Gentlemen:

Presented herewith is the report on our investigative audit of selected records of the Gladeville Utility District. This investigative audit focused on the period January 1, 2005, through April 30, 2008. However, when warranted, this scope was expanded.

Section 9-2-102, *Tennessee Code Annotated*, requires that the Comptroller of the Treasury prescribe a uniform system of bookkeeping designating the character of books, reports, receipts and records, and the method of keeping same, in all state, county and municipal offices, including utility districts, which handle public funds. This code section also requires that all officials adopt and use the prescribed system. The Comptroller has prescribed a minimum system of recordkeeping for utility districts, which is detailed in the *Uniform Accounting Manual for Tennessee Utility Districts* combined with Chapter 6 of *Governmental Accounting, Auditing and Financial Reporting*. The purpose of our audit was to determine the extent of the entity's compliance with certain laws and regulations, including those in the above-mentioned manuals.

Our investigative audit revealed that between June 2006 and March 2008, the former general manager received payments totaling \$300,211 that were either not approved and/or were in violation of district policy.

The findings and recommendations in this report also relate to those conditions that we believe warrant your attention. All responses to each of the findings and recommendations are included in the report.

Members of the Board of Commissioners
Gladeville Utility District
April 15, 2009

Copies of this report are being forwarded to Governor Phil Bredesen, the State Attorney General, the District Attorney General, certain state legislators, and various other interested parties. A copy is available for public inspection in our office.

Very truly yours,

A handwritten signature in black ink, appearing to read "Justin P. Wilson". The signature is fluid and cursive, with a prominent initial "J" and a long, sweeping underline.

Justin P. Wilson
Comptroller of the Treasury



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
DEPARTMENT OF AUDIT
DIVISION OF MUNICIPAL AUDIT

Justin P. Wilson
Comptroller of the Treasury

BANK OF AMERICA PLAZA
414 UNION STREET, SUITE 1100
NASHVILLE, TENNESSEE 37243-1402
PHONE (615) 532-4460
FAX (615) 532-4499

Dennis F. Dycus, CPA, CFE, Director
Division of Municipal Audit

April 15, 2009

Mr. Justin P. Wilson
Comptroller of the Treasury
State Capitol
Nashville, TN 37243-0260

Dear Mr. Wilson:

As part of our ongoing process of examining the records of utility districts, we have completed our investigative audit of selected records of the Gladeville Utility District. This investigative audit focused on the period January 1, 2005, through April 30, 2008. However, when the audit warranted, this scope was expanded.

Section 9-2-102, *Tennessee Code Annotated*, requires that the Comptroller of the Treasury prescribe a uniform system of bookkeeping designating the character of books, reports, receipts and records, and the method of keeping same, in all state, county and municipal offices, including utility districts, which handle public funds. This code section also requires that all officials adopt and use the prescribed system. The Comptroller has prescribed a minimum system of recordkeeping for utility districts, which is detailed in the *Uniform Accounting Manual for Tennessee Utility Districts* combined with Chapter 6 of *Governmental Accounting, Auditing, and Financial Reporting*. The purpose of our audit was to determine the extent of the entity's compliance with certain laws and regulations, including those in the above-mentioned manuals.

Our investigative audit revealed that between June 2006 and March 2008, the former general manager received payments totaling \$300,211 that were either not approved and/or were in violation of district policy.

Our investigative audit also resulted in findings and recommendations related to the following:

1. Former general manager's apparent direct conflict of interest
2. Lack of policy or controls over district cell phones
3. Water bill adjustment authorization and justification not documented
4. Inadequate oversight over fuel usage
5. Failure to maintain complete, updated fixed asset records
6. Failure to document bid compliance for applicable purchases

Mr. Justin P. Wilson
Comptroller of the Treasury
April 15, 2009

In addition to our findings and recommendations, we are also providing management's response. If after your review, you have any questions, I will be happy to supply any additional information which you may request.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dennis F. Dycus". The signature is fluid and cursive, with a large, stylized initial "D" and "F".

Dennis F. Dycus, CPA, CFE, Director
Division of Municipal Audit

**INVESTIGATIVE AUDIT OF SELECTED RECORDS
OF THE GLADEVILLE UTILITY DISTRICT
FOR THE PERIOD JANUARY 1, 2005, THROUGH APRIL 30, 2008**

BACKGROUND

The board of commissioners was in the practice of approving employees' compensation each year by reviewing a benefit package prepared by the former general manager for each and every employee. In September 2006 and November 2007, the board apparently approved employees' benefit packages, including that of the former general manager. However, all three commissioners told state auditors that, although they had the opportunity to review in detail these employee packages, they failed to do so. When they later did examine the former general manager's benefit package for both years, each found the packages included items that were not only in violation of the district's policies, but also inconsistent with the wishes expressed by the board of commissioners in previous public meetings. Board commissioners indicated that, although the benefit package that the former general manager presented was approved by them, they had not been aware that certain components, which were against district policy, were included.

The former general manager told state auditors that he believed he had received permission from the commissioners to act outside the district's policies. He stated that the permission was often by "sidewalk meeting," where he would speak to an individual commissioner outside the district's offices. The commissioners also told auditors that there were occasional individual conversations regarding policy with the former general manager. However, auditors found no authority granting individual district commissioners the ability to create district policy or to change, suspend, or violate established board policies. The board of commissioners' power and authority originate from their actions as a board, not the actions of an individual member of the board. Section 7-82-301, *Tennessee Code Annotated*, states, "The powers of each district shall be vested in and exercised by a majority of the members of the board of commissioners of the district." Section 7-82-309 states, "The board of commissioners of any district has the power and authority to ... Exercise by vote, ordinance or resolution all of the general and specific powers of the district..." Therefore, individual commissioners granting permission¹ to violate established district policies would have no legitimate influence on district operation.

¹ The commissioners deny giving permission to violate district policy.

LEGAL ISSUES

1. **ISSUE:** **Former general manager received \$150,032 in improper compensation for unused sick leave**

The former general manager received payments totaling \$150,032 for unused sick leave in violation of the utility district's written personnel policy. In November 2005, the board of commissioners adopted a personnel policy that stated "an employee may not be paid for any unused sick leave." In addition, at that same meeting in which the board adopted that personnel policy prohibiting the sale of unused sick leave, the minutes reflect the following passage: "The Board noted that Mr. Walker [former general manager] would receive the same benefit package as all employees." However, our investigative audit revealed that between March 2007 and August 2007, the former general manager directed that six checks be issued to himself for 1,944 hours of unused sick leave. Two and one-half months after the last sick leave payments were issued, two commissioners signed the benefits package that included a provision for selling unused sick leave. Both commissioners stated that they did not review and were unaware of that provision, and would not have signed the document had they known that provision was in it. The former general manager told state auditors that he knew the district policy prohibited payment for unused sick leave. However, he also stated that a former commissioner (now deceased) had told him that he was not like the other employees. In addition, he believed some or all of the commissioners had given him informal permission to sell his unused sick leave.

2. **ISSUE:** **Former general manager received \$38,602 in improper compensation for vacation pay**

The former general manager received payments for vacation accrued in excess of board policy totaling \$38,602. In November 2005, the board of commissioners adopted a written leave policy. Also, at that same meeting, the minutes reflect the following passage: "The Board noted that Mr. Walker [former general manager] would receive the same benefit package as all employees." In August 2007, the board revised the policy to allow employees with more than 15 years of service to receive 4 weeks of paid vacation leave. However, for the calendar years 2007 and 2008, Mr. Walker paid himself for 10 weeks of vacation pay annually. Additionally, even though the former general manager worked less than half of calendar year 2008, he ordered staff to pay him for the entire year's leave. Although two commissioners signed a benefit package that included the provision of 10 weeks vacation leave for the former general manager, they told auditors that they did not review and were unaware of that provision, and would not have signed the document had they known that provision was in it.

3. **ISSUE: Unapproved salary adjustment to former general manager**

The former general manager ordered a \$13,362 cash salary adjustment be paid to himself in September 2007. He also authorized similar adjustments for several other employees at the same time. Although this bonus was included on the former general manager's benefit package sheet, which the board of commissioners approved, that authorization occurred one and one-half months after the adjustment check was issued. In addition, the two commissioners told auditors that they did not review and were unaware of that provision, and would not have signed the document had they known that provision was in it.

4. **ISSUE: Unapproved pay increase for former general manager**

The former general manager received excess pay totaling \$71,440 as a result of an unapproved pay raise. The board of commissioners approved district-wide pay raises in May 2006 and January 2007 of between 3 percent to 6 percent. However, our investigative audit revealed that the former general manager ordered for himself an additional 31 percent pay increase in June 2006. This unapproved raise resulted in a pay increase to the former general manager of \$714 per week, or \$37,000 annually. The former general manager told state auditors that his salary had been reduced when the district hired an assistant manager in 2005. However, he said that a former commissioner, (now deceased) gave him permission to restore his salary to its previous level.

5. **ISSUE: Unapproved salary advance to former general manager**

The former general manager received excess salary of \$26,775 in 2008. He ordered his salary be paid to him at an accelerated pace in 2008. During the first 13 weeks of the year, he received the equivalent of 30 weeks of salary. His last paycheck was dated March 25, 2008. This type of salary advance did not appear to be either for a valid district purpose or in the district's best interest. In addition, since the former general manager's last day on the job was May 2, 2008, he had been advanced 8 weeks of salary for which he never worked and therefore did not earn.

Item	Amount
Improper sale of sick leave	\$150,032
Sale of excessive vacation leave	38,602
Unapproved salary adjustment	13,362
Proceeds from unapproved pay raise	71,440
Unearned salary advance	<u>26,775</u>
Total excess compensation	<u>\$300,211</u>

FINDINGS AND RECOMMENDATIONS

1. **FINDING: Former general manager’s apparent direct conflict of interest**

Our investigative audit revealed that the district paid the former general manager \$4,250 for a used Toro lawn mower. The invoice in district files purported to indicate that the former general manager purchased the mower from a lawn service on behalf of the district. The former general manager insisted that he had sold his mower to a start-up lawn service owned by his daughter, but conceded that he had bought the mower back from her before he resold it to the district.

Section 12-4-101(a)(1), *Tennessee Code Annotated*, states:

It is unlawful for any officer, committee member, director, or other person whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract in which any municipal corporation, county, state, development district, utility district, human resource agency, or other political subdivision created by statute shall or may be interested, to be directly interested in any such contract. “Directly interested” means any contract with the official personally or with any business in which the official is the sole proprietor, a partner, or the person having the controlling interest....

The Gladeville Utility District Code of Ethics, Section 3, states:

An official or employee who must exercise discretion relative to any matter other than casting a vote and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on the attached disclosure form and file the disclosure form with the Board of Commissioners.

RECOMMENDATION:

To provide impartial decisions regarding the district’s contracts, officials should ensure that unlawful conflicts of interest, as defined by Section 12-4-101, *Tennessee Code Annotated*, are avoided.

MANAGEMENT’S RESPONSE:

Members of the Board of Commissioners:

The members of the board of commissioners agree to make every effort to ensure that unlawful conflicts of interest are avoided. The board was unaware of the circumstance referenced in this finding and has already implemented financial oversight procedures that will assist in assuring that unlawful conflicts of interest are avoided.

Manager:

The general manager was employed after the referenced events occurred. He concurs with the statement of the board of commissioners.

2. **FINDING: Lack of policy or controls over district cell phones**

Our investigative audit revealed that the district paid for 27 cell phones, including one for each of the four office clerks. In addition, management canceled the district’s contract with a cell phone service provider, which was due to expire in four months, creating an early termination penalty of \$5,400. The board of commissioners had not adopted a comprehensive, written cell phone policy. In addition, the commissioners told state auditors that they were not consulted or even advised that an existing cell phone contract was being terminated resulting in a substantial penalty. The *Uniform Accounting Manual for Tennessee Utility Districts*, Section 2-6, requires that an internal control system designed to minimize errors, fraud and waste be installed, including safeguards to prevent abuse of district property.

RECOMMENDATION:

Members of the board of commissioners should adopt a comprehensive, written cell phone policy, including consideration of which employees require a cell phone to perform their job duties.

MANAGEMENT’S RESPONSE:

Members of the Board of Commissioners:

The board concurs with the recommendation and will expand the policy on Use of District Equipment by adopting a separate policy governing cell phones.

Manager:

The general manager was employed after the referenced events occurred. He concurs with the response of the board of commissioners.

3. **FINDING: Water bill adjustment authorization and justification not documented**

Our investigative audit revealed that a \$6,593 adjustment was granted to a commercial customer on the instructions of the former general manager. However, there was no documentation establishing this as a permissible reduction in the customer's bill. The district had a policy allowing adjustments to customers' bills for leaks. However, there was no evidence this adjustment was made pursuant to a leak. In addition, although it appeared that adjustments were routinely approved by the board of commissioners, this adjustment was never brought before them for their consideration. The *Uniform Accounting Manual for Tennessee Utility Districts*, Section 4-1, states, "All adjustments to customers' bills should be approved by the board of commissioners."

RECOMMENDATION:

To ensure accountability for all billings and so that all customers are treated fairly, members of the board of commissioners should ensure that only legitimate adjustments to customer bills are granted. All adjustments should be reviewed and approved by the board. Calculation and approval of adjustments should be properly documented and maintained.

MANAGEMENT'S RESPONSE:

Members of the Board of Commissioners:

The board was unaware of the circumstance referenced in this finding, concurs with the recommendation and has already implemented procedures to ensure that all adjustments are properly documented, reviewed and approved by the board.

Manager:

The general manager was employed after the referenced events occurred. He concurs with the response of the board of commissioners and has developed a report that documents each adjustment and is provided to the board for its review and approval.

4. **FINDING: Inadequate oversight over fuel usage**

Our investigative audit revealed that there was inadequate oversight over district fuel usage. Our reconciliation of fuel recorded as utilized by employees revealed over 350 gallons of unaccounted for gasoline. The *Uniform Accounting Manual for Tennessee Utility Districts*, Chapter 7, outlines the requirements for accounting for inventory items. The manual requires that management safeguard inventory items and control the purchase and issue of materials.

RECOMMENDATION:

To adequately safeguard district inventory, management should ensure that district fuel, and other inventory items, are adequately secured from unauthorized access. In addition, management should continuously monitor and compare bulk fuel purchases with fuel used and investigate any differences.

MANAGEMENT'S RESPONSE:

Members of the Board of Commissioners:

The board concurs with the recommendation and has already implemented procedures to monitor and document fuel usage and compare the same with fuel purchases.

Manager:

The general manager was employed after the referenced events occurred. He concurs with the response of the board of commissioners.

5. **FINDING: Failure to maintain complete, updated fixed asset records**

Members of the board of commissioners did not ensure that complete, updated fixed asset records were maintained. In addition, many assets were not marked or tagged to identify them as district property, including several passenger vehicles, backhoes, and other construction equipment. Generally accepted accounting principles and the *Uniform Accounting Manual for Tennessee Utility Districts*, Section 8-2, require that records for each fixed asset be maintained. The records should include a brief description, model number, serial number, purchase price, useful life, location of asset, location of title, and date and authorized method of disposal. In addition, all fixed assets should be identified (tagged or marked) as belonging to the utility district.

RECOMMENDATION:

To maintain adequate control over and properly account for individual fixed assets, members of the board of commissioners should require updated records of all such property. In addition, an inventory record should be maintained of high-risk, moveable assets such as small office machines and furnishings. At least once a year, the commissioners should ensure that a physical inventory of all district fixed assets be performed, documented, and reconciled to fixed asset records. All discrepancies should be explained. All district property should be appropriately marked or tagged. To discourage non-district use, all district vehicles and construction equipment should be clearly marked to identify them as district property.

MANAGEMENT’S RESPONSE:

Members of the Board of Commissioners:

The board concurs with the recommendation and has already implemented procedures to ensure that fixed assets of the district are marked and included on inventory records and that an annual physical inventory of fixed assets is performed, documented and reconciled to the district’s records.

Manager:

The general manager concurs with the response of the board of commissioners.

6. **FINDING:** **Failure to document bid compliance for applicable purchases**

For several applicable purchases, there was no documentation in district files establishing that management had obtained publicly advertised bids as required by Section 7-82-801, *Tennessee Code Annotated* and the *Uniform Accounting Manual for Tennessee Utility Districts*, Section 5-1. In addition, there was no documentation that the purchases were exempted from the requirements. Finally, the minutes of the meetings of the board of commissioners did not include mention that these purchases were considered by the board.

RECOMMENDATION:

To obtain the best price and to comply with state statutes, members of the board of commissioners should ensure that required bidding procedures are followed for all applicable purchases. Adequate documentation should be maintained to provide evidence that correct bidding procedures were followed. If the purchase meets a qualified exception from the bidding requirements, that exception should be adequately documented.

MANAGEMENT’S RESPONSE:

Members of the Board of Commissioners:

The board concurs with the recommendation. The district has a purchasing policy with competitive bidding requirements and has implemented procedures to ensure that adequate documentation of compliance with the policy is maintained.

Manager:

The general manager concurs with the response of the board of commissioners.