

SPECIAL INVESTIGATION

**CHUCKEY UTILITY DISTRICT
CROSS ANCHOR UTILITY DISTRICT
JULY 1, 2011, THROUGH SEPTEMBER 30, 2013**



State of Tennessee

Comptroller of the Treasury



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY**

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**Justin P. Wilson
Comptroller of the Treasury**

August 18, 2014

Members of the Boards of Commissioners
Chuckey Utility District
Cross Anchor Utility District
800 West Andrew Johnson Highway
Greeneville, TN 37745

Ladies and Gentlemen:

The Office of the Comptroller of the Treasury conducted a special investigation of selected records of the Chuckey Utility District and Cross Anchor Utility District which focused on the period July 1, 2011, through September 30, 2013. When warranted, this scope was expanded.

Presented in this report are the findings resulting from this special investigation. Copies of this report are being forwarded to Governor Bill Haslam, 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 and may be viewed at <http://www.comptroller.tn.gov/ia/>.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie S. Maxwell".

Stephanie S. Maxwell, Deputy General Counsel
Office of the Comptroller of the Treasury

SSM/RAD

**SPECIAL INVESTIGATION OF SELECTED RECORDS
OF THE CHUCKEY UTILITY DISTRICT
AND THE CROSS ANCHOR UTILITY DISTRICT
FOR THE PERIOD JULY 1, 2011, THROUGH SEPTEMBER 30, 2013**

SUMMARY

The Office of the Comptroller of the Treasury performed a special investigation of selected records of the Chuckey Utility District and of the Cross Anchor Utility District, including the Force Account, which was created by an interlocal agreement between the two districts. The investigation focused primarily on the period July 1, 2011, through September 30, 2013, and revealed the following:

- The retired general manager, Shirley Collins, received \$25,056 in bonuses in December 2012 that had not been approved by the boards of commissioners.
- The former general manager, Kandie Jennings, used district funds totaling at least \$2,064 to purchase a computer for her personal benefit.
- Inconsistencies were noted regarding interpretation, authorization, and initiation date of a \$182,334 employment contract with the retired general manager, Shirley Collins.

These matters were referred to the local district attorney general.

BACKGROUND

Chuckey Utility District and Cross Anchor Utility District are separate legal entities with separate boards of commissioners, separate water lines, and separate customers. Until recently, the two districts shared a common staff, including upper management. Shirley Collins, a 30-year district employee, served as general manager for both districts until 2012, at which time the two districts appointed Ms. Collins' daughter, Kandie Jennings, general manager¹. Both boards of commissioners removed Ms. Jennings from that position in October 2013. For purposes of this report, Shirley Collins will be referred to as retired general manager and Kandie Jennings will be referred to as former general manager.

¹Board of commissioners' meeting minutes indicate that Cross Anchor Utility District appointed Ms. Jennings as general manager in May 2012 and Chuckey Utility District appointed Ms. Jennings as general manager in August 2012.

In addition, the two districts entered into an informal interlocal governmental agreement that created the Force Account. The Force Account was used as a method of pooling assets in order to provide manpower and equipment for line extensions and other capital projects for the two districts.

During the course of the investigation, questions emerged regarding the approval by individual board members of bonuses and other benefits. The power and authority of board of commissioners originate from the board's actions as a governmental body, not from 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(a), states: "The board of commissioners of any district has the power and authority to: (1) Exercise by vote, ordinance or resolution all of the general and specific powers of the district..." Therefore, individual commissioners have no authority to independently alter or establish district policies, to contract in the name of the district, or to commit and expend district funds.

INVESTIGATIVE FINDINGS

The investigative findings resulting from this special investigation are shown below. These matters were referred to the local district attorney general.

1. **FINDING: Bonuses paid to retired general manager Shirley Collins without board approval**

Our investigation revealed that the former general manager, Kandie Jennings, paid district funds totaling \$25,056 to her mother, retired general manager Shirley Collins, ostensibly for performance and longevity bonuses. Even though her daughter had assumed the role of general manager, Ms. Collins was still employed by the districts in an unspecified role. According to the minutes of the meetings, these bonuses were not approved by either district's board of commissioners. In addition, in separate interviews, each individual board member stated that they did not approve and were not aware of the bonuses.

Months after Ms. Jennings was named general manager, she directed two types of bonuses be paid to her mother. Ms. Collins received two performance bonuses totaling \$9,168 in December 2012. Ms. Collins told investigators that this type of bonus had traditionally been given to most district employees over the last 10 years or more. Ms. Collins asserted the performance bonuses were most recently tied to performance evaluations, although she acknowledged that she had not received such an evaluation. Ms. Collins also received two longevity bonuses totaling \$15,888 from the districts.

Ms. Jennings told investigators that she conceived and developed the idea of a longevity bonus, and Ms. Collins was the only employee ever to receive this type of bonus. She further stated she had sought approval from the Cross Anchor Utility District's Board of

Commissioners for this bonus. Ms. Jennings also explained that the Chuckey Utility District chairman, John Carter, had relayed to her through another district employee that he supported the bonus. As noted above, Cross Anchor Utility District and Chuckey Utility District commissioners maintained they were unaware of the bonuses. In addition, both Chairman Carter and the district employee named by Ms. Jennings indicated they had never discussed longevity bonuses with each other.

2. **FINDING: Former general manager made an unauthorized personal purchase of \$2,064**

The former general manager, Kandie Jennings, used district funds totaling \$2,064 to purchase an Apple computer and accessories for her personal benefit. On September 29, 2012, Ms. Jennings used a district credit card to purchase an Apple MacBook Pro, along with three years of technology support and accidental damage from handling coverage, at Best Buy in Johnson City, Tennessee. In November 2012, district funds were used to pay for that charge. [Refer to Exhibit 1.]



In October 2013, the two districts suspended and subsequently terminated Ms. Jennings. After Ms. Jennings' suspension, staff discovered that the Apple computer and other equipment were not on district property. Ms. Jennings arranged the return of the Apple computer to district offices in March 2014. A forensic analysis of the computer's hard drive by Comptroller staff revealed that no district-related software or files had been installed on the device. Instead, until October 5, 2013, the computer had been used exclusively for gaming, particularly the video game Minecraft®, and personal internet use. Ms. Jennings told investigators that although she had purchased the computer for district use, she had allowed a family member not employed by the district to use the computer beginning in January 2013 and that it was never used for district business.

3. **FINDING: Inconsistencies surrounding interpretation, authorization, and initiation date of an employment contract with retired general manager valued at \$182,334**

Inconsistencies related to an undated consulting contract valued at \$182,334 between Chuckey Utility District and retired general manager, Shirley Collins, created doubts and confusion about the interpretation, authorization, and initiation date of the contract. [Refer to Exhibit 2.] The Chuckey Utility District's Board of Commissioners ostensibly approved the contract on August 15, 2012, according to the minutes of the board meeting². [Refer to Exhibit 3.] The minutes contained no detailed discussion of the proposed contract, including cost or terms³, and did not include a copy of the contract. Ms. Collins told investigators that the contract, prepared by her daughter (former general manager Kandie Jennings), was signed by the board chairman, John Carter, at the board meeting. Both of the board members present at that meeting – John Carter and Dennis Adams – recalled agreeing to pay Ms. Collins' health insurance premiums for two years following her retirement; however, neither recalled discussing a consulting contract or the terms of such a contract. In interviews with investigators, Mr. Carter stated he was unsure whether he signed the contract, but he would not have done so knowingly.

The language of the contract indicated that Ms. Collins would become a consultant beginning the date the contract was executed and continuing for the next two years. Ms. Collins maintained the contract was executed on August 15, 2012; however, district payroll records revealed that during the following eight months, Ms. Collins' employment status appeared to remain unchanged. Ms. Collins continued to receive her salary and other employee benefits – unchanged from when she was general manager. She also benefited from the generous employee bonuses referred to in Investigative Finding 1. She received her last payroll check from the district on April 15, 2013, and she received her first consulting check on April 26, 2013.

²Minutes of the Chuckey Utility District's Board of Commissioners' meetings were handwritten by either retired general manager Shirley Collins or her daughter, former general manager Kandie Jennings.

³According to calculations found in Ms. Collins' personnel file and based on subsequent payments to her, the contract was valued at \$182,334 to be paid over two years in 24 monthly payments.

CONTRACT

This Contract and Agreement entered into in Greene County, Tennessee, on this the ____ day of _____, 2012, by and between Chuckey Utility District (hereafter District) and Shirley Collins (hereinafter Collins). The parties to this Agreement in consideration of the mutual covenants and stipulations do hereby set out and agree as follows:

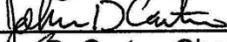
1. Collins will be a consultant for the District for the next two (2) years.
2. During this two (2) year period, Collins will make herself available by telephone to assist the District employees as necessary.

During this two (2) year period, if the District's General Manager or Distribution Manager determines an emergency situation exists, Collins will be available to travel inside the boundaries or to the office of the District to assist the District personnel.

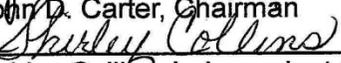
3. The District shall pay Collins the equivalent of her 2011 salary cost and benefits divided into 24 monthly payments plus insurance and taxes. The employment relationship between the District and Collins will be that of principal and independent consultant, and no relationship of employer/ employee shall be implied herein. The scope of her work for the District will be a consultant and requirements of Paragraphs 1, 2, and 3 of this Agreement. In addition to the monthly salary as set out before, Collins will be receiving only those benefits which she receives as a retired employee of the District which are available to Collins irrespective of her role as an independent consultant under the terms of this Contract/Agreement. Collins will use her best efforts to carry out the obligations and requirements of this Contract/Agreement.

In witness whereof, the parties have executed this Contract/Agreement on this the ____ day of _____, 2012.

This Contract/Agreement can be renewed at the request of the District if both parties are in agreement.



John D. Carter, Chairman



Shirley Collins, Independent Consultant

Chucky Utility District Board of Commissioners
met at the County Water Office August 15, 2012
at 4:30 P.M.

Commissioners present: John Carter
Dennis Adams

Also present: David Wykle, Kandi Jennings
& Shirley Collins

Adjustments approved

Sanitary Survey - 97 score

Dennis Adams made a motion to approve
retirement insurance plan, John Carter second,
All in favor. Motion passes.

Dennis Adams made a motion to appoint Kandi
Jennings as General Manager of Chucky
Utility District, John Carter second. All in
favor, Motion passes.

Motion by John Carter to hire former manager
Shirley Collins as a new development
consultant for a period of 2 to 4 years,
Dennis Adams second. All in favor. Motion
passes.

Meeting adjourned

John D Carter

OTHER FINDINGS AND RECOMMENDATIONS

Presented below are the findings and recommendations related to internal control and compliance deficiencies noted during the investigation that we believe warrant the attention of Chuckey Utility District and Cross Anchor Utility District officials.

1. **FINDING: Lack of policy establishing reasonable expenses**

The former general manager, Kandie Jennings, spent at least \$7,671 in district funds to arrange and finance a retirement party for her mother, retired general manager Shirley Collins. All the board members recall discussing the retirement party (and most attended the party); however, they failed to impose any restrictions on the cost of the event. The party was held the evening of Friday, June 28, 2013, at Ms. Collins' home. It was open to employees, commissioners, other individuals related to the districts and their families.

The districts paid for the rental of an 18-foot inflatable slide, an inflatable movie screen and projector, a Slushee machine, a cotton candy machine, and a hot dog machine. The cost included \$1,944 for barbecue, which included 50 pounds of pulled pork and 40 racks of ribs. According to guests that helped clean up after that party, a considerable portion of the food was uneaten and was wrapped up and stored at Ms. Collins' house.

A second, private party for friends and family was held at Ms. Collins' home the following day. According to guests who attended the private party, the rental items were used at the private party, and it appeared that the food served was left over from the district-funded party. Ms. Collins told Comptroller investigators that they may have served some of the leftovers from the district-funded party, but they also prepared other food themselves. In addition to the retirement party, the two districts spent \$4,100 for Christmas parties in 2012.

The districts failed to adopt policies and procedures specifically addressing the appropriateness, restrictions, and limits of disbursements not directly related to district operations. Section 7-82-403, *Tennessee Code Annotated*, addresses the fact that boards of commissioners should collect reasonable rates to provide for the operation and maintenance of the system. It is the responsibility of the board of commissioners to ensure that district staff understand and value the importance of prudent and sensible use of ratepayer funds.

RECOMMENDATION:

To help ensure that all district expenditures are for a valid district purpose and are reasonable and necessary for the purposes for which the districts exists, officials should consider establishing policies addressing the appropriateness of disbursements, such as the parties and meals noted above.

MANAGEMENT’S RESPONSE:

Members of the Board of Commissioners of Chuckey Utility District:

We concur. Although disbursements not directly related to district operations, such as parties, are not specifically addressed in our current policy, all such disbursements will be formally approved by the board and recorded in the minutes along with an estimate of the anticipated cost prior to any disbursement.

Members of the Board of Commissioners of Cross Anchor Utility District:

We concur. A new purchasing policy was adopted on June 9, 2014, based on TAUD guidance. Although disbursements not directly related to district operations, such as parties, are not specifically addressed in this policy. All such disbursements will be formally approved by the board and recorded in the minutes along with an estimate of the anticipated cost prior to any disbursement.

2. **FINDING: Violation of districts’ expense reimbursement policy**

Without the knowledge or approval of the boards of commissioners, former general manager, Kandie Jennings, paid herself and certain other employees of the districts a lump sum phone allowance of up to \$3,600 per year. Ms. Jennings claimed that her allowance was to cover her cell phone, her home phone, and her home internet service. District files contained no documentation that these amounts represented actual expenses paid by employees for phone and internet use or that the reimbursements were for expenses reasonably related to and necessary for business of the districts. The districts’ expense reimbursement policies state that district employees are eligible for reimbursement for expenses that are actual, ordinary, and necessary in the conduct of district business.

RECOMMENDATION:

To help ensure all district funds are used only for valid district purposes, members of the boards of commissioners should confirm that any expense reimbursement is adequately documented and is for an actual, reasonable, and necessary district expense.

MANAGEMENT’S RESPONSE:

Members of the Board of Commissioners of Chuckey Utility District:

We concur. The board has approved a stipend to be paid weekly. This stipend will be reviewed annually by the board.

Members of the Board of Commissioners of Cross Anchor Utility District:

We concur. A mobile phone and texting use policy was adopted on June 9, 2014, based on TAUD guidance. This policy states that the board will determine a monthly stipend to be determined and reviewed on an annual basis. Cross Anchor employees are also now on the government plan through Verizon which will allow actual expenses to be monitored.

3. **FINDING: Failure to establish and follow policies regarding credit cards**

The boards of commissioners failed to establish policies related to credit cards issued in the districts' names. We noted numerous deficiencies in internal controls and procedures related to district credit cards, including:

- a) District officials failed to adopt guidelines setting forth what type of transactions were permissible for charge on the district credit card, and specifically prohibiting cash advances.
- b) There was no thorough oversight or review of credit card charges by any official other than the authorized users to substantiate the appropriateness of purchases.
- c) Several charges on the district credit card had no invoices or other adequate documentation on file at the district offices. As a result, records were insufficient to determine if the districts received the benefit of these purchases.
- e) Officials failed to address custody and safekeeping of the physical credit cards. The authorized district credit card may have been given to other district employees from time to time; however, there was no log or other record to document whom was responsible for a particular charge.

The *Internal Control and Compliance Manual for Tennessee Utility Districts*, page 46, states:

[D]esignate individuals who are authorized to make purchases with district debit, credit, or p-cards. Clearly define the types of purchases permitted to be made using debit, credit, or p-cards. Such purchases must be approved in the same manner as any other purchase. If district officials authorize the use of debit, credit, and/or p-cards, the number of cards maintained should be kept to a minimum and should be properly accounted for. A record of the current holder(s)/user(s) should be maintained in the district's files. Debit, credit, and/or p-cards should not be "loaned" to other employees. That is, if the card has been issued/signed out to one

employee, another employee should not be permitted to use that card. Personal charges should be strictly prohibited.

RECOMMENDATION:

To ensure only authorized, permissible charges are made on district credit cards, district officials should formulate clear, comprehensive credit card policies and procedures.

MANAGEMENT'S RESPONSE:

Members of the Board of Commissioners of Chuckey Utility District:

We concur. Two credit cards in two employees' names have been approved by the board and the board will review all credit card statements at the monthly meeting.

Members of the Board of Commissioners of Cross Anchor Utility District:

We concur. Although Cross Anchor did not have a credit card in its name, the Chuckey credit card was used for Cross Anchor purchases. One credit card in one employee's name has been approved by the board and the board will review all credit card statements at the monthly board meeting.

4. **FINDING: Lack of adequate and complete minutes**

The former and the retired general managers failed to include in the minutes for the meetings of the boards of commissioners adequate detail of board discussions and actions taken, and in many instances did not include copies of relevant documents, such as contracts. For instance, the minutes included neither documentation of a detailed discussion of terms and costs nor a copy of a consulting contract between Chuckey Utility District and retired general manager Shirley Collins.

The *Internal Control and Compliance Manual for Tennessee Utility Districts*, pages 14–15, state:

The board should ensure that ... complete minutes of actions taken by the board are maintained at the utility district's office. The official minutes should be signed as approved by the secretary of the board (or other authorized individual) and kept together in date order and be easily accessible. The minutes should include the following:

- a. copies of all resolutions adopted (including utility rates, cut-off policy, tap fees, etc.)

b. schedules of personnel appointments and salary rates and changes (In larger districts where such information may not be practicably included in the minutes, the minutes should include documentation of: (1) all appointments and wage rates that must be set by the board; and (2) across the board wage increases. Adequate policies governing authorization of pay increases should be developed and maintained by the district. Wage and salary rates increases delegated by the board should be adequately documented in the personnel records.)...

g. copies of contracts entered into by the board. The board must obtain a written contract for all agreements with other entities or individuals for services received or provided, regardless of whether payment is involved, including the following:

- (1) contract labor and consultant agreements, including computer services, day labor, and similar work
- (2) leases
- (3) rentals
- (4) management agreements

RECOMMENDATION:

To ensure that the boards' wishes are clearly and accurately documented, district officials should include all relevant actions, and any related documentation, as part of the official minutes of the meetings of the boards of commissioners. The minutes should be carefully reviewed by the boards and then signed by designated board officials.

MANAGEMENT'S RESPONSE:

Members of the Board of Commissioners of Chuckey Utility District:

We concur. The office manager now records the actions taken at each meeting and all commissioners present approve and sign minutes. All new contracts and resolutions will be included in the future.

Members of the Board of Commissioners of Cross Anchor Utility District:

We concur. The board secretary now records (written and audio) the actions taken at each meeting and all commissioners present approve and sign the minutes. All new contracts and resolutions will be included in the future.

5. **FINDING: Lack of oversight of districts' fueling system**

Our investigation revealed that district officials failed to provide adequate oversight related to the use of district fuel cards. Certain district employees were assigned fuel cards that allowed them to purchase fuel for the districts' vehicles at retail fuel locations. However, officials did not monitor those purchases for accuracy or reasonableness. For instance, the districts failed to correctly identify each district vehicle to the fuel vendor. Likewise, the employees' personal identification numbers often were not associated with the names of the actual current users. As a result, the fuel usage reports generated by the fuel vendor were inaccurate as to which employee was obtaining fuel and to which vehicle he or she was fueling.

RECOMMENDATION:

To reduce the risk of fraud, waste, or abuse, district officials should review, monitor, and reconcile fuel purchases charged to district accounts. Officials should ensure that vehicle and user information provided to the fuel management vendor is up to date and accurate. Any discrepancies should be investigated immediately.

MANAGEMENT'S RESPONSE:

Members of the Board of Commissioners of Chuckey Utility District:

We concur. All vehicles have a separate card and each employee has a unique PIN to be used for fuel purchases. The receipts are turned in to the office personnel to be reconciled to the weekly and/or monthly statements from the vendor. All discrepancies are discussed with the vendor in a timely manner.

Members of the Board of Commissioners of Cross Anchor Utility District:

We concur. All vehicles have a separate card and each employee has a unique PIN to be used for fuel purchases. The receipts are turned in to office personnel to be reconciled to the weekly and/or monthly statements from the vendor. All discrepancies are discussed with the vendor in a timely manner.

6. **FINDING: Interlocal agreement not formally adopted**

Neither board of commissioners ever formally adopted the Force Account, a joint venture created by Chuckey Utility District and Cross Anchor Utility District to provide manpower and equipment for capital projects. In addition, the two districts failed to define in writing specific aspects of the agreement, such as the duration of the joint venture, provisions for an administrator, and the method to be employed for partial or complete termination of the agreement. Section 12-9-101, et al., *Tennessee Code Annotated*, sets forth the requirements and responsibilities of public entities entering into interlocal agreements.

RECOMMENDATION:

Members of the boards of commissioners should ensure that any interlocal agreement is properly established and all filing requirements are followed.

MANAGEMENT'S RESPONSE:

Members of the Board of Commissioners of Chuckey Utility District:

We concur. The joint venture between Chuckey and Cross Anchor Utility Districts has been terminated. All equipment and employees associated with the joint venture have been realigned according to the mutual agreement of the boards.

Members of the Board of Commissioners of Cross Anchor Utility District:

We concur. The joint venture between Chuckey and Cross Anchor has been terminated. All equipment and employees associated with the joint venture have been realigned according to the mutual agreement of the boards.

7. **FINDING: Personal use of utility districts' vehicles**

Some district employees used their district-issued vehicles for nondistrict purposes. One former employee frequently drove his son from Greeneville to a private school in Morristown in the morning and back home after school, a round trip of more than 65 miles, between October 2010 and December 2011. The former employee suggested that on many of these trips to his son's school, he also conducted legitimate district business in the area. However, the districts' policy manuals prohibit personal use of district vehicles. In addition, the boards of commissioners were not aware and did not authorize the personal use of district vehicles.

Routinely diverting district vehicles for personal use could be considered working outside the scope of a governmental and proprietary function⁴. As a result, the government tort liability act would not provide protection to the districts in the event an injury or damages occurred as a result of these personal errands performed by the districts' employees. Such activity exposes the utility districts to unknown and potentially unlimited liability.

RECOMMENDATION:

Members of the board of commissioners should strictly enforce the vehicle use policies. In addition, to protect the districts from potential liability, management should prohibit employees from transporting passengers for purposes unrelated to district business.

⁴Section 29-20-201, *Tennessee Code Annotated*

MANAGEMENT’S RESPONSE:

Members of the Board of Commissioners of Chuckey Utility District:

We concur. The board plans to adopt TAUD’s vehicle use policy.

Members of the Board of Commissioners of Cross Anchor Utility District:

We concur. A revised utility vehicle use policy was adopted June 9, 2014, based on TAUD guidance. Each operator of the utility district’s vehicles received a copy of the policy which defines the concept of “de minimus” use.