



**STATE OF TENNESSEE  
COMPTROLLER OF THE TREASURY  
DEPARTMENT OF AUDIT  
DIVISION OF INVESTIGATIONS  
SPECIAL INVESTIGATIONS UNIT**

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Comptroller of the Treasury

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June 12, 2013

Honorable Mayor and Members of the  
Board of Aldermen  
Town of Monterey  
302 East Commercial Avenue  
Monterey, TN 38574

Ladies and Gentlemen:

The Comptroller's Division of Investigations conducted an investigative audit of selected records of the Town of Monterey. This investigation included a review of certain military surplus and seized property. The investigative audit focused on the period July 1, 2011, through June 30, 2012; however, when necessary, this scope was expanded. The investigative audit revealed the following:

- The town did not use some surplus military equipment for allowable purposes.
- Surplus equipment obtained from the military was delivered to private property.
- A lease agreement signed by the former mayor was apparently created and backdated to justify the presence of surplus military equipment on private property.
- Certain seized or abandoned vehicles were not used in accordance with state law.
- The town failed to adopt a comprehensive written purchasing policy.

## INTERNAL CONTROL AND COMPLIANCE DEFICIENCIES FINDINGS

1. **FINDING: Surplus military equipment not used for law enforcement activities as required**

Our audit revealed that some military surplus property was not being used for allowable purposes. The town participated in a military surplus property program administered by the State of Tennessee through which the town received certain property at no cost<sup>1</sup>. Prior to being granted eligibility, the former police chief, as the designated town representative, was required to sign an agreement detailing the obligations and responsibilities assumed

by the town. The first condition cited in the agreement required the town to maintain the “property for use as intended for law enforcement activities only.” Some of the surplus property acquired by the town was plainly marked and prepared for law enforcement use. However, several of the items obtained by the town did not appear to be suitable solely for law enforcement activities, including a dump truck, a bucket truck, and a bulldozer.



functions. As noted in Finding 2, the bulldozer was initially delivered to property owned by the former police chief.

The agreement further stated that “Property available under this agreement is for the use of authorized program participants; not for speculative or possible future use. Property may not be obtained for the purpose of sale, lease, rent, exchange, barter, to secure a loan or to otherwise supplement normal budgets.” Comptroller investigators observed the bucket truck being used for non-law enforcement

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<sup>1</sup> Program guidelines required the local government to retrieve and transport the property from wherever it is located.

2. **FINDING: Surplus military equipment delivered to town employee's property**

The bulldozer referred to in Finding 1 was originally delivered on or about June 1, 2012, to property in Overton County owned by the former police chief. The former police chief



told Comptroller investigators that he took the machinery to his property in order to assemble the blade to the body, which was delivered separately. Comptroller investigators determined that at least one other piece of military surplus property was taken to the former police chief's property purportedly to assist in the assembly. The former police chief told Comptroller

investigators that he never attached the blade to the body while the equipment was on his property. Based on the condition of the blade and the end caps, and review of other

documentation, it is unlikely that the blade was attached or used while on the former police chief's property. The former police chief also told Comptroller investigators that he never used the town bulldozer for any purpose while it was on his property, although we could not confirm that statement. The bulldozer and blade were transported to town property on June 6, 2012. Comptroller investigators were unable to determine a clear



benefit to the town or other compelling reason to assemble the bulldozer at the former police chief's property. As noted above, use of military surplus property for other than law enforcement purposes is prohibited, including leasing, renting, or exchanging the property.

Operating town equipment on private property could be considered working outside the scope of a governmental and proprietary function<sup>2</sup>. As a result, the government tort liability act would not provide protection to the town in the event an injury or damages occurred as a result of the work performed by the town employees. Such activity exposes the town to unknown and potentially unlimited liability.

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<sup>2</sup> Section 29-20-201, *Tennessee Code Annotated*

3. **FINDING:** A lease agreement signed by the former mayor was apparently created and backdated to justify surplus military equipment on private property

Comptroller investigators learned that after the town bulldozer referred to in Finding 2 was removed from the former police chief's property, the former mayor and former police chief signed an agreement for the town to lease that property in Overton County. The agreement located in town records was dated May 24, 2012, and was for a term of three years at \$1 per year, and specified the property was to be used for a long-range rifle training site. According to the lease, the town was responsible for "expending the funds and equipment in improving the range to accommodate long range training." Although the agreement seemingly explained the delivery and presence of town equipment on the former police chief's private property during the first week of June 2012, the former police chief never mentioned this document during his interview with Comptroller investigators. A review of documentation in town files indicated the lease was actually not prepared until June 11, 2012, 18 days subsequent to the date shown on the document, and five days after the town-owned bulldozer had been removed from the former police chief's property. The minutes of the meetings of the mayor and board of aldermen include no discussion, consideration, or approval<sup>3</sup> of either the lease or the proposed long-range rifle training site.

4. **FINDING:** Improper use of seized or abandoned vehicles

Our investigative audit found that one seized vehicle and one abandoned vehicle were used contrary to state law. A truck seized and awarded in 2010, pursuant to state statutes related to an arrest for driving while intoxicated, was titled to the town and used for animal control purposes. Sections 40-33-211 and 53-11-201(b), *Tennessee Code Annotated*, allow municipalities to use vehicles, seized pursuant to these statutes, only in the local drug enforcement program. In addition, an abandoned vehicle that had been taken into custody by the Monterey Police Department pursuant to Section 55-16-103, *Tennessee Code Annotated*, was put into service by the police department. State law requires that abandoned vehicles be sold at public auction.

5. **FINDING:** Comprehensive written purchasing policy

The mayor and the members of the board of aldermen failed to develop and adopt a comprehensive written purchasing policy. The *Internal Control and Compliance Manual*

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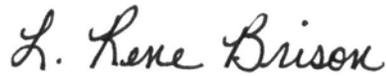
<sup>3</sup> Section 7-51-904, *Tennessee Code Annotated*, mandates that any lease agreement for real property must first be approved by the governing board of the municipality, either by resolution or ordinance.

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*for Tennessee Municipalities*, page 61, states that municipalities should adopt a written purchasing policy that includes designating persons authorized to make purchases, requiring the use of prenumbered purchase orders, requiring approval by the finance officer, outlining procedures for emergency and small-item purchases without prior approval, and requiring bids for purchases over a stated amount.

The current mayor has indicated his intention to ensure that immediate action is taken to resolve these issues. If you have any questions concerning the above, please contact me.

Sincerely,



L. Rene Brison, CPA, CFE, Assistant Director  
Division of Investigations  
Special Investigations Unit

LRB/RAD