



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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State Auditor

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September 15, 2014

Mr. Larry Ferguson, President
Hitchcock County School Board
312 W. 3rd Street
P.O. Box 368
Trenton, NE 69044

Dear Mr. Ferguson:

As you know, the Nebraska Auditor of Public Accounts (APA) received questions and concerns regarding certain financial matters involving the Hitchcock County School District (District). The APA began limited preliminary planning work to determine if a full financial audit or attestation would be warranted. Pursuant thereto, the APA requested certain financial information from Mr. Michael Apple, District Superintendent.

Based upon the outcome of this preliminary planning work, the APA has determined that a separate financial audit or attestation of the Hitchcock County School District is unnecessary at this time. However, during the course of the preliminary planning work, we noted certain internal control or compliance matters, or other operational matters within the District, that are presented below. The following comments and recommendations, which have been discussed with management, are intended to improve internal controls or result in other operational efficiencies.

Our consideration of internal control was for the limited purpose described above and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Therefore, material weaknesses or significant deficiencies may exist that were not identified.

Draft copies of this letter were furnished to the Hitchcock County School Board to provide its members with an opportunity to review and respond to the comments and recommendations herein. The Hitchcock County School Board's responses are included below.

Comments and Recommendations

1. Purchase of Golf Clubs

A variety of golf clubs were purchased online, tax exempt, by the District Superintendent, who also fulfills the role of golf coach, using the District credit card from Taylor Made Golf Company, Inc., on April 4 and April 15, 2014, totaling \$717.93.

The Superintendent ordered two individual golf clubs and a separate set of eight clubs on April 4, 2014, for \$567.30 plus \$8.87 shipping and tax exempt, totaling \$576.07. Upon delivery, the clubs were given to students who were members of the golf team. Those students reimbursed the District \$576.07 for the cost of the golf clubs on April 11, 2014. On April 15, 2014, the Superintendent made another online golf club purchase from Taylor Made using the District credit card – this time for himself – for \$135.20 plus \$6.66 shipping and tax exempt, totaling \$141.86. The District was reimbursed for this club in two increments: a cash payment of \$70 on May 30, 2014, and a \$71.86 payroll deduction from the Superintendent on June 13, 2014. All of the clubs were personally retained by the students and Superintendent and not by the District.

See **Attachment A** for a copy of the invoices.

The District's purchases of golf clubs for the personal use of the students and Superintendent give rise to both constitutional and statutory concerns. To start, Article XIII, section 3, of the Nebraska State Constitution prohibits extending the credit of the State to a private individual or enterprise. Emanating from that prohibition is "a longstanding principle of constitutional law in Nebraska that public funds cannot be expended for private purposes." Op. Att'y Gen. No. 97048 (Sept. 16, 1997).

Additionally, Neb. Rev. Stat. § 49-14,101.01(1) (Reissue 2010) states:

A public official or public employee shall not use or authorize the use of his or her public office or any confidential information received through the holding of a public office to obtain financial gain, other than compensation provided by law, for himself or herself, a member of his or her immediate family, or a business with which the individual is associated.

Subsection (2) of that same statute provides:

A public official or public employee shall not use or authorize the use of personnel, resources, property, or funds under his or her official care and control other than in accordance with prescribed constitutional, statutory, and regulatory procedures or use such items, other than compensation provided by law, for personal financial gain.

Subsection (7) says, in relevant part, "[A]ny person violating this section shall be guilty of a Class III misdemeanor"

The use of the District credit card to make personal purchases with public funds appears to run afoul of the common law corollary to Article XIII, section 3. Additionally, the golf club purchases may have given rise to a violation of § 49-14,101.01. For, by using the District credit card to buy a golf club for himself, the Superintendent benefited not only from what was essentially an interest-free loan of public funds but also by avoiding sales tax due to the District's tax-exempt status.

We recommend the District implement a formal policy to prohibit any future expenditure of public funds to purchase items for personal use – regardless of whether such expenditures are reimbursed. Furthermore, the District should ensure sales taxes are properly paid or reported on the purchases at issue. The District should also consult with its attorney regarding the potential ramifications of any misuse of District funds. The APA will refer this matter to the Nebraska Accountability and Disclosure Commission and the Nebraska Attorney General.

District Response: The school district does not agree that the golf clubs were purchased for “personal use” or “private purposes” or that there has been any “personal financial gain.” The golf clubs were purchased by the school district for golf team use by students who are golf team members and its coach (the superintendent). The students and coach reimbursed the district for the cost of the clubs and were then allowed to retain possession after the end of golf season. The superintendent and some golf team members will continue to use the golf clubs in the future for golf team purposes. In any event, the school district will review its policies, practices, and procedures to ensure that all future school district purchases and the distribution of its property comply with state law, including but not limited to NEB. REV. STAT. § 79-10,114 (sale of school property.)

APA Response: Because the golf clubs did not remain the property of the District, the classification of the purchases as “personal” was deemed appropriate. As mentioned in our recommendation, the APA will refer the issue to the Nebraska Accountability and Disclosure Commission and the Nebraska Attorney General.

2. Lack of Policies for Use of Petty Cash Fund and Purchasing or Credit Cards

The District did not have written policies covering the use of its petty cash funds, purchasing cards, or credit cards to prohibit personal purchases or regulate the specific usage of the cards.

The District maintains a petty cash fund in the amount of \$6,250. As noted above, the District lacked a written policy governing the use of the petty cash fund. The Hitchcock County School Board (Board) approved all replenishment payments to the fund on a monthly basis; however, per the Superintendent, the Board rarely, if ever, reviewed the documentation available to support the purchases made from the fund.

The District also utilizes four Walmart credit cards, three credit cards through a One Card Account, one Orschlen Farm & Home card, and three gas credit cards. Again, the District did not have a credit card policy regarding the use of these cards. The bookkeeper is responsible for reviewing the Walmart credit card statements, while the Superintendent and the bookkeeper are responsible for reviewing the other credit card statements. The Board did not historically review all of the credit card statements.

After the District was contacted by the APA, a Purchasing (Credit) Card Program policy was approved by the Board at the August 25, 2014, special Board meeting. Additionally, the Superintendent indicated that, effective as of its September 2014 meeting, the Board will begin reviewing all of the credit card statements.

Without policies and procedures to ensure petty cash funds and credit cards are not used for personal purchases, there is an increased risk for a loss or misuse of District funds.

We recommend the District ensure implementation of procedures regarding the petty cash fund, including requirements that purchase details and documentation are provided to the Board on a monthly basis and are properly reviewed by the Board to ensure no personal purchases are allowed. We also recommend the Board ensure the recently-approved credit card purchasing policy is followed to ensure no personal purchases are allowed.

District Response: The school district has adopted a Purchasing (Credit) Card Program policy to address any concerns related to purchasing cards and credit cards. The school district will review the use of a petty cash fund and its related practices and procedures to determine whether a petty cash policy should be implemented and whether its petty cash practices and procedures will be continued or discontinued. However, it should be noted that no personal purchases were made from the petty cash fund or the credit or purchasing cards with the district's current practices and procedures (including requiring employees to provide itemized receipts and a review of those receipts and expenditures by multiple school district employees as well as its auditor).

APA Response: It should be noted that the APA selected only a small sample of items to review and cannot confirm the veracity of the claim that “no personal purchases were made.” Regardless, such claim appears suspect given our finding included in the first comment and recommendation, above.

3. Purchase of Flowers

The Board purchased a \$30 flower arrangement for a teacher after the birth of a child.

The Local Government Miscellaneous Expenditure Act (Act), which is set out at Neb. Rev. Stat. §§ 13-2201 through 13-2204 (Reissue 2012), specifies various expenditures, aside from those otherwise authorized by law, that constitute allowable uses of public funds by designated political subdivisions. The provisions of the Act are made applicable to school districts, among numerous other entities, by both subsections (2) and (3) of § 13-2202.

On September 17, 1993, the Nebraska Accountability and Disclosure Commission issued “A Guideline to the Use of Public Funds by Cities and Villages” (Guideline). This document attempts to answer some commonly asked questions regarding the appropriate use of public funds. Though written principally for the benefit of cities and villages, the advice provided in the Guideline is equally applicable to school districts – which, as pointed out already, are also covered under the Act.

One of the issues addressed in the Guideline is the purchase of flowers, as follows:

Question #6 – May municipal funds be expended for flowers and memorials for deceased elected officials, employees, or their families?

Response – No.

The above conclusion is based upon the fact that § 13-2203 enumerates specifically all allowable expenditures of public funds under the Act. Buying flowers for deceased officials is not included among such statutorily approved purchases. Likewise, purchasing flowers for the birth of a child is also not a statutorily approved purchase.

After this issue was raised by the APA, the Superintendent consulted with the District's legal counsel, who advised him that the expenditure is not allowed by law. As of August 2014, the Superintendent indicated that he personally reimbursed the District \$30 for the expenditure.

We recommend the Board work with its legal counsel to ensure an understanding of and adherence to the provisions of the Government Miscellaneous Expenditure Act, as well as to determine whether additional policies are needed.

District Response: As noted, the superintendent personally reimbursed the district for this expenditure. In addition, the school district and administration will review the Government Miscellaneous Expenditures Act and its related policies, practices, and procedures with legal counsel to ensure that future school district purchases are allowed by the Act or another provision of law.

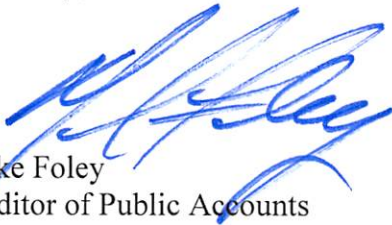
* * * * *

Our audit procedures are designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our objective is, however, to use our knowledge of the District to make comments and suggestions that we hope will be useful to the District.

This communication is intended solely for the information and use of the District and its management. It is not intended to be, and should not be, used by anyone other than the specified parties. However, this letter is a matter of public record, and its distribution is not limited.

If you have any questions regarding the above information, please contact our office.

Sincerely,



Mike Foley
Auditor of Public Accounts

.cc District Superintendent
Accountability and Disclosure Commission
Nebraska Attorney General

Hitchcock County School District
Gold Club Invoices

Attachment A



Taylor Made Golf Company, Inc.
5545 Fermal Court
Carlsbad, CA 92008-7324



FOR SALES, SERVICE AND BILLING INQUIRIES CALL (800) 888-2582

SOLD TO:

TEAM SALES CREDIT CARD ACCOUNT
ATTN: ANGIE RAMIREZ
5545 FERMI COURT
CARLSBAD CA 92008

SALES ORDER ACKNOWLEDGMENT

ISSUED	ORDER NUMBER	PAGE
04/15/14	MUZ785	1

SHIP TO:

MIKE APPLE
HITCHCOCK COUNTY SCHOOLS
318 WEST D STREET
TRENTON NE 69044

ACCOUNT NUMBER	PURCHASE ORDER NO.	CONTACT PERSON	ORDER DATE	SHIP VIA	SHIPPING INSTRUCTIONS	TERMS		
543617		Duane Kenney	04/15/14	FEDEX GROUND		CREDIT CARD PAY		
ITEM NO.	DESCRIPTION	ORDER QTY	REQUESTED SHIP DATE	ANTICIPATED SHIP DATE	UNIT PRICE	EXTENDED PRICE	DISCOUNT	EXTENDED NET PRICE
DK MIKE N1123909	MWF-Jetspeed 7-23/Rh S	1	04/15/14		169.00	169.00	20.00	135.20

APA Note: This golf club was purchased for the Superintendent

Item # 9

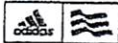
TOTAL EXTENDED PRICING	TOTAL DISCOUNT	TOTAL EXTENDED NET
169.00	33.80	135.20

* TMAG reserves the right to incorporate applicable discounts for special promotions and custom orders in wholesale price.
** TMAG reserves the right to modify price in the event of order entry error.

*+5?H
141.86*

Hitchcock County School District
Gold Club Invoices

Attachment A



ASHWORTH

Taylor Made Golf Company, Inc.
5545 Fermi Court
Carlsbad, CA 92008-7324

For inquiries about your invoice, please call: 800-888-2582
View and access your account on-line at tmag.biz

Invoice Number	Account Number
22056525	616240
Invoice Date	Due Date
04/04/14	04/04/14
Terms	Invoice Amount
CREDIT CARD PAYMENT	\$576.07
Please Send Itemized Remittance To:	
PO BOX 56431 LOS ANGELES, CA 90074-6431	

BILL TO:

SHIP TO: 543617

TEAM SALES CREDIT CARD ACCOUNT
ATTN: ANGIE RAMIREZ
5545 FERMI COURT
CARLSBAD, CA 92008

MIKE APPLE
HITCHCOCK COUNTY SCHOOLS
318 WEST D ST
TRENTON, NE 69044

ORDER DATE	ORDER #	SHIP DOO#	PURCHASE ORDER #	SHIP VIA	TRACKING #	
03/28/14	MO7178	GH4090	MIKE APPLE	FEDEX GROUND	961879871061892	
ITEM NO	DESCRIPTION	QTY SHIPPED	UNIT PRICE	EXTENDED PRICE	DISCOUNT	PRICE AFTER DISCOUNT
	TAX EXEMPT ID#47-0822381					
N1116709	21297007 MWD-RBz2 Bond 10.5/Rh S	2	\$128.00	\$256.00	20.00%	\$204.1
N1395809	21297007 IRS-RbladezHP 4-P_A/Rh S	1	\$453.00	\$453.00	20.00%	\$362.1
Item # 9						
SUB TOTAL:			3	\$709.00		\$567.2
						UPS \$8.8

APA Note: APA removed a note indentifying the recipient of these golf clubs. The clubs were purchased for students.

Total Inv. Amt: \$576.07

A monthly late payment charge of 1.5% is made on any balance unpaid after due date.
This order is subject to the terms and conditions set forth in the TaylorMade-adidas Golf Company policies available online at tmag.biz.



ASHWORTH

Remit To:
PO BOX 56431
LOS ANGELES, CA 90074-6431

Account Number	616240
Invoice Number	22056525
Invoice Date	04/04/14
Due Date	04/04/14
Total Amount Due	\$576.07