



# NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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Lavon Olson, Chairperson  
Alma Rural Fire District  
PO Box 680  
Alma, NE 68920

Dear Chairperson Olson:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Alma Rural Fire District (District) for the fiscal year ending 2020. **That request has been approved.**

While performing, pursuant to Neb. Rev. Stat. § 84-304 (2020 Neb. Laws, LB 781, § 8), the preliminary examination necessary to determine whether further audit work would be required or the audit waiver should be allowed, the APA noted certain internal control or compliance matters, or other operational issues, within the District.

The following information is intended to improve internal controls or result in other operational efficiencies.

## Comments and Recommendations

### **1. Brokerage Account Investments**

The APA obtained the monthly statements for the District's bank and investment accounts from its fiscal year 2020 audit waiver request. From those statements, the APA noted two brokerage accounts, with a combined balance of \$68,432 as of June 30, 2020, held at Stone Wealth Management. Because these accounts include stock ownership in multiple private corporations, the District's investments therein appear to conflict with the following constitutional and statutory provisions.

To start, Article XI, § 1, of the Nebraska State Constitution provides, in relevant part, the following:

*No city, county, town, precinct, municipality, or other subdivision of the state shall ever become a subscriber to the capital stock, or owner of such stock, or any portion or interest therein of any railroad, or private corporation, or association . . . .*

Furthermore, Neb. Rev. Stat. § 77-2341(1) (Reissue 2018) reads as follows:

*Whenever any county, city, village, or other governmental subdivision, other than a school district, of the State of Nebraska has accumulated a surplus of any fund in excess of its current needs or has accumulated a sinking fund for the payment of its bonds and the money in such sinking fund exceeds the amount necessary to pay the principal and interest of any such bonds which become due during the current year, the governing body of such county, city, village, or other governmental subdivision may invest any such surplus in excess of current needs or such excess in its sinking fund in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as*

*provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made. The state investment officer shall upon request furnish a copy of current authorized investment guidelines of the Nebraska Investment Council.*

The Nebraska Attorney General has stated, in an Attorney General opinion, the following regarding investments held by political subdivisions:

*Section 77-2341 allows state political subdivisions to invest securities which the Nebraska Investment Council's investment guidelines authorize. The Investment Council's guidelines authorize direct investment in U.S. Government obligations . . . .*

\* \* \* \*

*The Constitution's language [Article XI, § 1] certainly prohibits a county from investing in a mutual fund when the portfolio includes stock, but it does not specifically address the issue of mutual funds solely comprise of U.S. Government obligations.*

Op. Att'y Gen. No. 95041 (May 15, 1995). Though addressing county hospital investments, the opinion's reference to Article XI, § 1, is applicable also to other political subdivisions, including Districts.

As of October 23, 2020, the Nebraska Investment Council does not have a policy or any other guidelines that outline the types of investments political subdivisions are allowed to invest in. As a result, political subdivisions would be restricted to investments strictly permitted by Nebraska law.

Good internal controls require procedures to ensure that District funds are not invested in stocks but held instead in accounts or assets permitted by law. Without such procedures, there is an increased risk of not only failure to comply with applicable constitutional and statutory provisions but also loss of District funds due to decreases in stock values.

We recommend the implementation of procedures to ensure all balances held by the District are in accounts or assets permitted by Nebraska law.

## **2. Scholarships and Memorial Gift**

Our review of the bank statements obtained from the District's audit waiver request revealed three payments, totaling \$540, that were written during the fiscal year for scholarships and a memorial gift. The following table summarizes these payments.

<b>Date</b>	<b>Amount</b>	<b>Description</b>
12/9/2019	\$ 250	Scholarship
12/9/2019	\$ 250	Scholarship
3/31/2020	\$ 40	Memorial Gift
<b>Total</b>	<b>\$ 540</b>	

Subsequent to the fiscal year, two more payments, totaling \$500, were also written for scholarships. These disbursements came from the District's main bank account, which contains District public funds.

The Local Government Miscellaneous Expenditure Act (Act), which is set out at Neb. Rev. Stat. § 13-2201 (Reissue 2012) et seq., 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 Districts, among numerous other public entities, by both subsections (2) and (3) of Neb. Rev. Stat. § 13-2202 (Supp. 2019).

Neb. Rev. Stat. § 13-2203 (Supp. 2019) of the Act enumerates the miscellaneous expenditures permitted by governing bodies of local governments. Purchases of flowers – whether for funerals, memorials, or other personal occasions – and payments for scholarships are not found among that select statutory list of permissible expenditures. As a result, such disbursements must be considered disallowed by law.

On September 17, 1993, the Nebraska Accountability and Disclosure Commission adopted a document entitled “A Guideline to the Use of Public Funds by Cities and Villages – Revised” (Guideline). The Guideline addresses a number of different scenarios involving the expenditure of public funds. Though issued almost three decades ago, the Guideline remains relevant to various Nebraska public entities, including Districts.

Regarding the issue of flower and memorial purchases, the Guideline provides the following:

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

*Response – No.*

Good internal control requires procedures to ensure compliance with the provisions of the Act.

Without such procedures, there is an increased risk for not only noncompliance with applicable statutory requirements but also loss or misuse of District funds.

We recommend the Board implement procedures to ensure all District purchases are allowable under State statute, including the provisions of the Act.

### **3. Payments Not Approved**

The APA obtained a copy of the September 9, 2019, meeting minutes for the Board of Directors (Board) of the District. Those minutes fail to reflect the Board’s approval of any District expenditures.

Per Neb. Rev. Stat. § 35-508(4) (Reissue 2016), Boards have the exclusive power to “manage and conduct the business affairs of the district.” Accordingly, any expenditure of District funds requires express Board authorization.

Additionally, Neb. Rev. Stat. § 35-511 (Reissue 2016) provides, in relevant part, the following:

*All donations, contributions, bequests, annuities, or borrowed money received by or on behalf of the district shall be deposited with the secretary-treasurer of the district and shall be drawn out only upon proper check. Such check shall be authorized by the board of directors and shall bear the signature of the secretary-treasurer and the countersignature of the president of such district.*

(Emphasis added.) Properly discharging the above statutory duties necessarily entails proper financial management, which calls for the Board’s approval of all expenditures prior to, or as soon thereafter as possible, the actual disbursement of District funds.

As a public body, moreover, the Board is subject to the provisions of the Open Meetings Act, which is set out at Neb. Rev. Stat. § 84-1407 (Reissue 2014) et seq. In particular, Neb. Rev. Stat. § 84-1413(1) (Cum. Supp. 2018) requires public bodies, including Boards, to “keep minutes of all meetings,” showing, among other things, “the substance of all matters discussed.”

Furthermore, a good internal control plan and sound business practices require procedures to ensure that the Board approves, in a timely fashion, all expenditures and business transactions of the District. Those same procedures should ensure also that the Board documents such approval in its meeting minutes, specifying the name of each payee, the exact amount of any disbursement, and the specific purpose of the payment.

Without such procedures, there is an increased risk for not only failure to comply with State statute but also loss or misuse of public funds.

We recommend the implementation of procedures to ensure the Board approves, in a timely fashion, all expenditures of District funds, and such approval is documented adequately in the Board’s meeting minutes.

**4. Lack of Dual Signatures**

The APA obtained the monthly statements for the District’s bank accounts from its fiscal year 2020 audit waiver request. From those statements, the APA noted that all District checks written during the examination period contained only one signature.

Nebraska law requires both the Secretary-Treasurer and the President of the District to sign all checks approved by the Board. In particular, Neb. Rev. Stat. § 35-511 (Reissue 2016) states that those checks “shall bear the signature of the secretary-treasurer and the countersignature of the president of such district.”

In addition, good internal controls and sound accounting practices require procedures to ensure that District checks contain the statutorily required endorsements.

Without such procedures, there is an increased risk for not only failure to comply with State statute but also loss or misuse of public funds.

We recommend the Board implement procedures to require dual signatures, from both the Secretary-Treasurer and the President, on all District checks, as required by law.

**5. Negative Bank Balance**

During review of the bank statements obtained from the District’s audit waiver request, it was noted that the District’s bond bank account had a negative balance of \$1,554.95 subsequent to the audit period, on July 1, 2020.

Good internal control and sound business practices require procedures to ensure sufficient funds are available in the District’s bank accounts to pay claims.

Without such procedures, there is an increased risk for not only the loss, misuse, or theft of District funds but also the accumulation of overdraft fees.

We recommend the District implement procedures to ensure sufficient funds are available in the District’s bank accounts to pay claims.

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The preliminary planning work that resulted in this letter was designed primarily on a test basis and, therefore, may not bring to light all existing weaknesses in the District’s policies or procedures. Nevertheless, our objective is to use the knowledge gained during the performance of that preliminary planning work to make comments and suggestions that we hope will prove 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 those specified parties. However, this letter is a matter of public record, and its distribution is not limited.

If you have any questions, please contact **Dakota Christensen** at **402-499-8702** or **dakota.christensen@nebraska.gov**.

Sincerely,



Mark Avery, CPA  
Assistant Deputy Auditor