



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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November 16, 2023

Lavon Olson, Chairperson
Alma Rural Fire District
P.O. 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 2023. **That request has been approved.**

While performing, pursuant to Neb. Rev. Stat. § 84-304 (Supp. 2023), 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 2023 audit waiver request. From those statements, the APA noted two brokerage accounts, with a combined balance of \$85,870 as of June 30, 2023, 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 Fire Districts.

Per the Nebraska Investment Council's (NIC) website, the NIC does not have a separate 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. Furthermore, the NIC's website recommends that political subdivisions consult with their legal counsel to determine what investments are allowable under State law. Per discussion with the Secretary-Treasurer of the District, the District has not discussed with its legal counsel to determine if the current brokerage accounts are allowable under State law.

Good internal control requires procedures to ensure that District funds are held 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.

A similar issue was identified by the APA in prior reviews and was disclosed to the District in the APA's letters dated December 21, 2022; December 29, 2021; and November 2, 2020, which can be found on the APA's website. However, it does not appear this issue was corrected after the APA's notification.

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

2. Expenditures in Excess of Budget

For the fiscal year ended June 30, 2023, actual expenditures exceeded the adopted budget by \$14,009. No amendment was filed with our office for these additional expenditures.

Neb. Rev. Stat. § 13-510 (Reissue 2022) states, in relevant part, the following:

No expenditure during any fiscal year or biennial period shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized in section 13-511, or by state law. Any officer or officers of any governing body who obligates funds contrary to the provisions of this section shall be guilty of a Class V misdemeanor.

Neb. Rev. Stat. § 13-511 (Reissue 2022) sets out the procedures for amending the adopted budget accordingly.

When expenditures are made in excess of the amounts budgeted, with no appropriation adjustments by the Board to address those excesses, the District is noncompliant with State statute, further increasing the risk for loss and/or misuse of funds.

We recommend the Board implement procedures to monitor closely its budget status on an ongoing basis to avoid incurring expenditures in excess of the amount budgeted and amend the budget as necessary.

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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,

A handwritten signature in black ink, appearing to read "Mark Avery", with a long horizontal flourish extending to the right.

Mark Avery, CPA
Assistant Deputy Auditor