



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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Jeremy Nelson, Chairperson
Phelps Gosper Fire District 2
74371 E Road
Bertrand, NE 68927

Dear Chairperson Nelson:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Phelps Gosper Fire District 2 (District) for the fiscal year ending 2025. **That request has been approved.**

However, the District's amount of disbursements for the fiscal year ending June 30, 2025, exceeded our normal threshold (\$500,000) for granting a waiver of the audit requirement. Disbursements for the fiscal year ended 2025, totaled \$770,333, which exceeds the normal audit waiver threshold. Additionally, we noted the budgeted expenditures for fiscal year 2026 are \$2,001,100. Due to the District's submission of supporting documentation for one-time, low risk expenditures, that accounted for a significant percentage of the current year's expenditures, we were able to consider for this year, the District's activity to be low enough to grant the audit waiver request.

Nevertheless, if the June 30, 2026, fiscal year end disbursements are similar to or greater than the fiscal year 2025's expenditures, or close to the budgeted disbursements for fiscal year 2026, an audit of fiscal year end June 30, 2026, may be required. This information is only for your consideration of planning for fiscal year 2026 and forward.

While performing, pursuant to Neb. Rev. Stat. § 84-304 (Supp. 2025), 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. Possible Conflict of Interest

The APA received the District Board of Directors (Board) meeting minutes and the accompanying claims listing for January 29, 2025. From this listing, the APA identified a possible violation of the Nebraska Political Accountability and Disclosure Act (Act) by Board member Luke Evans.

In addition to serving as a Board member, Mr. Evans owns Evans Repair, LLC, a welding and automotive repair business located in Bertrand, Nebraska. This has been confirmed by information found on both the Nebraska Secretary of State's website and the company's business card. According to the above-referenced meeting minutes, Mr. Evans appears to have failed to abstain from voting on two claims paid to Evans Repair, LLC.

Meeting minute excerpts pertaining to those questioned claim payments are shown below:

II. Roll Call

The following members were present: Jeremy Nelson, Alex Bowen, Ethan Dannehl, Calvin Dannehl, and Luke Evans. Chief Kevin Stehl and Jessica Evans were in attendance as guests.

IV. Treasure Report

Treasure report was given my Ethan.

Alex made a motion to approve check #s 1528-1559. A 2nd by Jeremy carried the motion. The vote was unanimous and passed.

Check #	Name/Vendor	Check Date	Amount
1544	Evans Repair, LLC	1/6/2025	\$ 664.91
1557	Evans Repair, LLC	1/28/2025	10.99
Total			\$ 675.90

Mr. Evans’ actions give rise to concerns regarding possible violation of the Act, which is set out at Neb. Rev. Stat. §§ 49- 1401 to 49-14,142 (Reissue 2021, Cum. Supp. 2024, Supp. 2025).

Neb. Rev. Stat. § 49-14,101.01 (Reissue 2021) of the Act says, in relevant part, the following:

(1) 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.

(2) 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.

* * * *

(7) Except as provided in section 23-3113, any person violating this section shall be guilty of a Class III misdemeanor, except that no vote by any member of the Legislature shall subject such member to any criminal sanction under this section.

A District Board member would fall within the definition of “public official,” which Neb. Rev. Stat. § 49-1443 (Reissue 2021) provides as follows:

Public official shall mean an official in the executive branch, an official in the legislative branch, or an elected or appointed official in the judicial branch of the state government or a political subdivision thereof; any elected or appointed member of a school board; and an elected or appointed member of a governing body of a state institution of higher education.

(Emphasis added.) Finally, it should be noted that questions regarding the propriety of official actions taken by the Board members, at least with regard to compliance with the provisions of the Act, may be submitted to the Nebraska Accountability and Disclosure Commission (Commission) for guidance. Neb. Rev. Stat. § 49-14,100 (Reissue 2021) states the following:

Any person who is in doubt as to the propriety of action proposed to be taken by him may apply to the commission for an advisory opinion relating thereto, and the commission shall have authority to render such opinions. When an advisory opinion is issued pursuant to a complete and accurate request, such opinion shall be a complete defense to any charge of violation of sections 49-1493 to 49-14,104 as to any action taken strictly subject to the terms of such opinion.

Good internal control requires procedures to ensure all District officers adhere to the provisions of the Act.

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

We recommend the Board implement procedures to ensure all District officers adhere to the provisions of the Act. Additionally, whenever any question arises regarding compliance with the Act, we recommend that formal guidance be sought from the Commission, as permitted by § 49-14,100. Finally, because this comment addresses possible violation of the Act, we are forwarding the information herein to the Commission for review.

2. Payments to Volunteer Fire Department

During our review of the bank statements accompanying the District's audit waiver request, the APA noted that the District paid \$3,121 to the Bertrand Volunteer Fire Department (Department) as a reimbursement for expenses paid by the Department. According to the District's Secretary-Treasurer, the District has agreed to reimburse the Department for fire equipment purchases; however, the District was unable to provide either a copy of that formal agreement or documentation to support that the funds disbursed pursuant thereto were indeed used for fire equipment. The District receives only a listing of expenses paid by the Department and usually does not receive the underlying supporting documentation for each expense being reimbursed.

The Local Government Miscellaneous Expenditure Act (Act), which is found at Neb. Rev. Stat. §§ 13-2201 to 13-2204 (Reissue 2022; Cum. Supp. 2024), places strict parameters upon certain expenditures of public funds by local governments, including rural and suburban fire protection districts.

Additionally, Neb. Rev. Stat. § 35-901(6) (Reissue 2016) requires the expenditure of all public funds by the Department to be approved by the "taxing authority supporting" it – namely, in this case, the District – and properly published, as follows:

All expenditures of public funds as defined in the Nebraska Budget Act for support of a volunteer department or its purposes shall be submitted as claims, approved by the taxing authority supporting such department or its purposes, and published as required by law. All such claims shall be properly itemized for proposed expenditure or reimbursement for costs already incurred and paid except as may be otherwise permitted pursuant to section 35-106.

According to Neb. Rev. Stat. § 13-503(7) (Reissue 2022) of the Nebraska Budget Act, the term "public funds" means "all money, including nontax money, used in the operation and functions of governing bodies." Any public funds received by the Department attach to the District to which it belongs – and, therefore, may be assumed to be used for the operation and function of that governing political subdivision. Consequently, such funds are subject to both the requirements of the Act and § 35-901(6).

Furthermore, good internal controls require procedures to ensure that any expenditure of funds by the District, whether directly or through a designated recipient thereof, is not only for a statutorily allowable purpose but also in accordance with the underlying objective of that disbursement. Thus, when a volunteer fire department – or, for that matter, any other entity or person – receives such funds, the District should have procedures for documenting their appropriate use.

Without such procedures, there is an increased risk for the improper, if not prohibited, use of District funds.

We recommend the District implement procedures for documenting the expenditure of public funds by it, whether directly or otherwise, to ensure the proper use of those monies.

3. Lack of Procedures Over Menards Rebate and Payment of Sales Tax

During review of the District’s bank statements, we noted one check issued to Menards, a home improvement store, on February 5, 2025, totaling \$8,271.85, for supplies related to the construction of a new fire station. Upon review of the supporting documentation associated with this purchase, the APA noted the following:

- A rebate, totaling \$230, was earned on this purchase; however, the District lacked procedures for tracking such rebates to ensure that they are used for the District’s benefit. After discussions with District representatives and obtaining additional support from Menards, it appears that the rebate was redeemed on a purchase made by the Department related to the construction of the new fire station. The Secretary-Treasurer of the District was unaware that a rebate had been earned on the purchase.
- This purchase included payment of State and local sales taxes, totaling \$541.15. An excerpt from the receipt for this purchase is copied below:

TOTAL	7730.70
TAX KEARNEY-NE 7%	541.15
TOTAL SALE	8271.85
CHECK	8271.85
Check # 1008	

Neb. Rev. Stat. § 77-2704.15(1)(a) (Cum. Supp. 2024) exempts the State and its various entities, including fire districts, from paying sales and use taxes, as follows:

Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of purchases by the state, including public educational institutions recognized or established under the provisions of Chapter 85, or by any county, township, city, village, rural or suburban fire protection district

(Emphasis added.) Good internal controls require procedures to ensure that rebates earned on District purchases are tracked and used only for the District’s benefit. Those same procedures should ensure also that sales and use taxes are not paid on District purchases.

Without such procedures, there is an increased risk for not only noncompliance with State statute but also loss, misuse, or theft of District funds.

We recommend the District implement procedures to ensure: 1) rebates earned on District purchases are tracked and used only for the District’s benefit; and 2) sales and use taxes are not paid on District purchases.

4. Payments Not Approved

The APA obtained a copy of the minutes for the Board’s June 19, 2025, meeting. Those minutes fail to reflect the Board’s approval of District expenditures from the Ambulance Fund or the Bond Fund.

Per Neb. Rev. Stat. § 35-508(4) (Reissue 2016), the Board has 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 of District funds. Such Board approval should be prior to the actual disbursement, if possible, or at the next Board meeting.

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 to 84-1414 (Reissue 2024; Supp. 2025). In particular, Neb. Rev. Stat. § 84-1413(1) (Reissue 2024) requires public bodies, including the Board, 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. Such Board approval should be prior to the actual disbursement, if possible, or at the next Board meeting.

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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

cc. Nebraska Accountability and Disclosure Commission