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Missouri State Auditor

City of Kimberling



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CITIZENS SUMMARY

Findings in the audit of the City of Kimberling

Accounting Controls and Procedures	<p>The city had significant turnover in the positions of Accounting Clerk, Administrative Assistant, City Treasurer, and City Clerk during 2013 and 2014. During this period, the Board of Aldermen did not perform adequate oversight of the work performed by city personnel, and established segregation of duties were not always followed. Bank reconciliations were not performed timely during 2013. The city does not always use the actual date of receipt when recording payments received, and does not account for the numerical sequence of receipt numbers assigned by the computerized system. In addition, city personnel do not always deposit receipts intact or sufficiently document reasons why cash is withheld from deposits. City personnel also do not maintain documentation to support the allocation of administrative expenses, such as salaries and related benefits, between various city funds. Further, city officials who are authorized signers on city bank accounts, and employees with access to receipts and city funds are not covered by a bond.</p>
Payroll	<p>The Board of Aldermen agreed to a retirement proposal with the former Police Chief and paid him additional compensation totaling \$25,000 in 2013, for services performed during the 3 years prior to his retirement, violating the state constitution. The Board also paid the police department detective additional compensation totaling \$423.50 in 2014 for temporarily serving as the Acting Police Chief in 2013, without authorizing the extra compensation prior to the performance of the extra duties. In addition, the City Clerk did not ensure payroll taxes were accurate and deposited timely, resulting in the assessment of \$1,929 in penalties and interest by the IRS.</p>
Bond Refinancing and Procurement	<p>The city did not solicit competitive proposals for its bond underwriter and did not use an independent financial advisor when selling \$3,755,000 in refunding revenue bonds in May 2013. In addition, the city did not solicit competitive bids for several expenditures exceeding \$5,000 as required by city code; including insurance; legal services; and computer software, license fees, and installation and training services. In November 2013 the city appointed a new City Treasurer, and then immediately rescinded a contract award for auditing services, and instead awarded the contract to the new City Treasurer's former accounting firm, creating the appearance of a conflict of interest. Because the City Treasurer is a former partner of the accounting firm, it is unclear if the firm can complete the audits in an independent and unbiased manner. Further, the city does not have written contracts with some service providers and certain outside parties as required by state law.</p>
Budgets, Financial Statements and Excess Revenue Monitoring	<p>The city did not comply with state law regarding city budgets, annual financial statements, or the monitoring for excess revenue from traffic violations. Annual budgets did not include a budget message and actual amounts for the 2 preceding years, and the Board did not approve the 2014 budget until April 2, 2014. The Board does not adequately monitor budget-</p>

to-actual receipts and disbursements, resulting in amendments to the 2013 budget near the end of the fiscal year and after actual disbursements exceeded amounts budgeted. Financial statements for the 6 months ending June 30, 2013, and December 31, 2013, did not include full and detailed accounts of receipts and disbursements. Further, the city did not calculate the percent of annual general operating revenue from fines and court costs related to traffic violations, determine whether the city should distribute any excess revenues to the state Department of Revenue, and provide an accounting of the percent in its annual financial report as required by state law.

Utility Controls and Procedures	The city does not periodically reconcile customer utility deposit balances reported in the city accounting records to the total deposit amount held in the customer deposits bank account. As of May 31, 2014, records indicated a shortage of \$10,794. According to city personnel, this is most likely due to utility deposits being made to the wrong bank account. In addition, the city does not have procedures in place to compare actual adjustments posted to the utility system to adjustment forms approved by the Board or the Mayor to make sure adjustments made by the Accounting Clerk are proper. Also, city personnel are not following the city's ordinance regarding late payment penalties for delinquent utility accounts.
Sunshine Law	Some topics discussed and voted on by the Board of Aldermen in closed meetings were not allowable under the Sunshine Law, and the Board did not always make public personnel decisions made in closed meetings in compliance with state law. In addition, the city does not timely respond to public record requests, and the City Clerk does not maintain a log of requests or routinely document the date requests are received.
Capital Assets	The city does not maintain records of its capital assets, capital assets are not tagged for specific identification, and an annual physical inventory is not performed.

In the areas audited, the overall performance of this entity was **Fair**.*

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

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NICOLE R. GALLOWAY, CPA
Missouri State Auditor

To the Honorable Mayor
and
Members of the Board of Aldermen
City of Kimberling, Missouri

The State Auditor was petitioned under Section 29.230, RSMo, to audit the City of Kimberling. We have audited certain operations of the city in fulfillment of our duties. The city engaged KPM, Certified Public Accountants (CPAs), to audit the city's financial statements for the year ended December 31, 2013. To minimize duplication of effort, we reviewed the CPA firm's audit report. The scope of our audit included, but was not necessarily limited to, the year ended December 31, 2013. The objectives of our audit were to:

1. Evaluate the city's internal controls over significant management and financial functions.
2. Evaluate the city's compliance with certain legal provisions.
3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions.

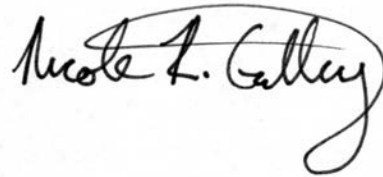
Our methodology included reviewing minutes of meetings, written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the city, as well as certain external parties; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the city's management and was not subjected to the procedures applied in our audit of the city.

For the areas audited, we identified (1) deficiencies in internal control, (2) noncompliance with legal provisions, and (3) the need for improvement in management practices and procedures. The accompanying Management Advisory Report presents our findings arising from our audit of the City of Kimberling.

An additional report, No. 2014-128, *Thirty-Ninth Judicial Circuit, City of Kimberling Municipal Division*, was issued in December 2014.

A handwritten signature in black ink, reading "Nicole R. Galloway". The signature is fluid and cursive, with the first name "Nicole" and last name "Galloway" clearly legible. The initials "R." are written in a smaller, more compact script between the first and last names.

Nicole R. Galloway, CPA
State Auditor

The following auditors participated in the preparation of this report:

Deputy State Auditor:	John Luetkemeyer, CPA
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City of Kimberling

Management Advisory Report

State Auditor's Findings

1. Accounting Controls and Procedures

Accounting controls and procedures need improvement.

The city had significant turnover in the positions of Accounting Clerk, Administrative Assistant, City Treasurer, and City Clerk during 2013 and 2014. The Organization and Statistical Information section includes information on the turnover in these positions.

1.1 Segregation of duties and oversight

The Board of Aldermen (Board) did not perform adequate oversight of the work performed by city personnel, and established segregation of duties were frequently not followed as intended. The Administrative Assistant is primarily responsible for collecting and receipting monies and preparing deposits and the City Clerk is responsible for reviewing and transmitting the deposits to the bank, but tasks were not always performed as assigned during 2013 due to frequent turnover in the Administrative Assistant position. In addition, the Administrative Assistant and the City Clerk also performed some of the duties normally performed by a City Treasurer during 2013 when this position was vacant. These weaknesses diminished the effectiveness of segregation of duties and increase the importance of independent reviews of work performed.

Proper segregation of duties helps ensure all transactions are accounted for properly and assets are adequately safeguarded. Attorney General's Opinion No. 24, 1955 to Dodds, concluded that in a fourth-class city, the holding of the positions of City Clerk, City Treasurer, and City Collector, or any two of these offices, by the same person at the same time would be incompatible. If proper segregation of duties is not operating effectively, the Board should develop procedures to ensure documented independent reviews of accounting records are performed.

1.2 Bank reconciliations

The Board did not ensure city personnel performed timely reconciliations of bank accounts during 2013. Due to the resignation of the former City Treasurer, bank reconciliations for July through November 2013 were not completed until January 2014, after the current City Treasurer took office.

Timely monthly bank reconciliations are necessary to ensure accounting records balance, transactions are properly recorded, and errors or discrepancies are detected and corrected timely.

1.3 Receipt dates and number sequence

The city does not always use the actual date of receipt when recording payments received and does not account for the numerical sequence of receipt numbers assigned by the computerized system.

The computerized system sequentially assigns a receipt number for monies received, but allows users to backdate payments received in the system for up to 5 days, resulting in receipt numbers being out of order on reports generated by date of receipt. For example, monies collected from the drop



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box each morning are backdated to the prior business day. Also, if a mailed payment is postmarked with a date prior to the month it is entered into the computer system, city personnel can backdate the date of receipt in the system to the postmarked month for the payment to prevent the system from assessing late payment penalties. These control weaknesses allow for possible manipulation of receipt data.

To ensure all monies received are properly recorded and deposited, and reduce the risk of loss, theft, or misuse of funds, consideration should be given to modifying the software program to ensure adequate controls are in place to record proper receipt dates and account for the numerical sequence of receipt numbers.

1.4 Receipting and depositing procedures

City personnel do not always record and deposit receipts timely. For example, property tax statements stamped as paid on November 12 and 13, 2013, were not receipted into the computerized system and deposited until November 22, 2013, and a deposit prepared for fees received on November 30, 2013, was not taken to the bank until December 13, 2013.

City personnel do not always deposit receipts intact or maintain sufficient documentation to explain cash withheld from deposits. When a customer pays utilities and property taxes with one check, city personnel deposit the full amount of the payment into the utility bank account and withhold cash from other customers' utility receipts to cover the amount needed for the property taxes deposit. City personnel deposit tax payments into the general bank account held at a different bank. Because both deposits do not always occur on the same date, property tax receipts are not immediately recorded in the system, and records to support cash withholdings are not sufficient, it is difficult to properly account for all monies received. Our review of deposits for one week in December 2013, identified property tax monies deposited exceeded property tax receipts recorded in the system by \$112. The City Clerk indicated she normally balances the deposits, but was unable to balance the property tax deposit for that period.

Failure to implement adequate receipting and depositing procedures increases the risk that loss, theft, or misuse of monies received will go undetected and accounting records will contain errors.

1.5 Allocation of expenses

City personnel do not maintain documentation to support the allocation of administrative expenses, such as salaries and related benefits, between various city funds. The former City Treasurer determined the administrative allocations for 2013, but did not maintain documentation to support these amounts. These allocations, done through journal entries, decreased administrative expenses of the General Fund by \$60,317 (32 percent) and the Street Fund by \$98,000 (34 percent), and increased administrative expenses of the Water and Sewer Fund by \$158,317 during the year ended December 31, 2013.



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The City Clerk and current City Treasurer developed a percentage method to allocate personnel expenses during 2014, but did not maintain documentation to support the allocation percentages and could not explain how they determined these percentages.

Generally accepted accounting principles and various legal restrictions require accounting for receipts and disbursements associated with specific activities in the fund established for those activities. A proper allocation of expenses is necessary for the city to accurately determine the results of operations of specific activities, thus enabling the city to establish the level of taxation and/or user charges necessary to meet all operating costs. To ensure restricted funds are used for their intended purposes, the allocation of expenses to city funds should be based on specific criteria, such as the number of hours worked by each employee.

1.6 Bond coverage

City officials who are authorized signers on city bank accounts and employees with access to receipts and city funds are not covered by a bond. Failure to properly bond individuals who have access to funds exposes the city to risk of loss.

Recommendations

The Board of Aldermen:

- 1.1 Ensure established segregation of duties is functioning effectively and/or ensure documented independent reviews of accounting records are performed.
- 1.2 Ensure bank reconciliations are completed timely.
- 1.3 Work with the computer software vendor to establish controls to account for the numerical sequence of receipt numbers assigned by the computerized system.
- 1.4 Ensure all monies are recorded immediately upon receipt and deposited timely and intact, and accounting records are sufficient to document handling of payments pertaining to multiple city functions and accounts.
- 1.5 Allocate expenses to city funds based on specific criteria and retain documentation to support these allocations.
- 1.6 Maintain bond coverage for all officials and employees with access to city assets.

Auditee's Response

The Board of Aldermen provided the following written responses:

- 1.1 *We have different people filling each of the three positions of City Clerk, City Treasurer, and City Collector, and we will ensure that*



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established segregation of duties is functioning effectively. Additionally, the City Administrator will provide oversight and document independent reviews of the accounting records.

- 1.2 *The City Treasurer currently completes bank reconciliations in a timely manner and will continue to do so in the future. They are generally performed the week prior to the second Board meeting of the month, and all bank information is presented to the Board at the second meeting of the month as part of the monthly financial report.*
- 1.3 *Currently, all payments are dated when received in the office. There is an exception on the first business day following the 20th of the month, which is the due date for utility payments. Payments received in the drop box by 8:00 a.m. that morning are attributed to the 20th under the assumption that those monies were given to the City on the 20th. Likewise, payments received in the mail on a Monday when the 20th falls on a weekend are attributed to the 20th. We do this to give the benefit of the doubt to our customers so as to not charge them a late fee if they in fact paid their bill on time. These same procedures apply to January 1st and the receipt of tax payments. The City Administrator will draft an official policy to detail the above policy so that it is well understood by staff and the public.*

As part of the daily deposit review, the City Administrator will review the receipt report and account for the numerical sequence of receipt numbers.

- 1.4 *Since the time of the audit, administrative staff have made every effort to record monies upon receipt and deposit all funds every day and will continue to do so. Occasionally (i.e., less than once per month) deposits are not made until the following day due to lack of manpower. With the addition of a full-time clerk on April 21st this should be eliminated. All deposits are monitored by the Administrative Assistant, City Administrator, and Accounting Clerk every day for completeness and to ensure payments pertaining to multiple city functions are sufficiently documented in the accounting records.*
- 1.5 *The allocation method used in the 2013 and 2014 budgets is no longer in place, and has been replaced by a percentage system based on historical findings of the number of hours worked by each employee across departments. The City Administrator will begin a more detailed time study for employees who split time between departments, which will be used to verify and/or modify the percentages used to allocate the salaries and benefits of these*



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employees. The city will retain documentation to support the 2015 and future allocations.

- 1.6 *The city will ensure that all officials, appointees, and employees with access to city assets will be appropriately insured and/or bonded.*

2. Payroll

The city made improper payments to employees for services previously rendered and does not adequately monitor payroll taxes.

2.1 Additional compensation

The Board paid the former Police Chief additional compensation totaling \$25,000 in 2013, for services performed during the 3 years prior to his retirement. The former Police Chief, earning an annual salary of approximately \$44,000 during each of the 3 years prior to 2013, presented a retirement proposal to the Board on July 1, 2013, stating "I am proposing a retroactive, no longer than 3 years, raise of \$25,000 with a retirement date of August 31, 2013." The Board voted to approve the retirement proposal on July 2, 2013. The Board obtained a legal opinion on July 9, 2013, which indicates city and state regulations will not allow the Board to grant the \$25,000 unless the Police Chief is able to present evidence of additional services rendered outside the scope of his office. The Board rescinded the initial motion and passed a revised motion on July 16, 2013, to accept the proposal and further compensate the former Police Chief for additional duties for the previous 36 months. City personnel provided a list of additional duties dated July 11, 2013, and had added more detail to the list on August 28, 2013. However, this information included vague descriptions for many of the additional duties and the former Police Chief did not record any of these duties or the associated work hours on his timesheets or other payroll records. He received the \$25,000 over 4 pay periods from July through September 2013.

The Board also paid the police department detective additional compensation totaling \$423.50 in June 2014, for additional duties performed while temporarily serving as Acting Police Chief during the 6-week period ending October 2, 2013. Extra compensation for additional duties or services outside the scope of an employee's normal duties should be authorized in advance of those duties being performed.

Additional compensation for services previously rendered is in violation of Article III, Section 39, Missouri Constitution, which states the general assembly may not authorize any county or municipal authority to grant any extra compensation, fee or allowance to a public officer, agent, servant or contractor after the service has been rendered.

2.2 Payroll taxes

The City Clerk did not ensure payroll taxes were accurate and deposited timely causing the city to incur penalties and interest. For example, total payroll tax deposits for the first, third, and fourth quarters of 2013 were



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\$6,010 less than the total amount due per the quarterly tax reports and 7 of the payroll tax deposits for these quarters were not made timely. The former Accounting Clerk was responsible for calculating and depositing the payroll taxes and the City Clerk was responsible for reviewing the accuracy of these deposits. Due to inadequate oversight, the city failed to remit some payroll taxes due to the Internal Revenue Service (IRS) timely, resulting in an assessment of \$1,929 in penalties and interest.

The Internal Revenue Code requires Form 941 to be filed with the IRS on a quarterly basis along with payment of Social Security and Medicare taxes withheld from the employee and the employer's share, as well as federal income taxes withheld. Good business practices require the city to make timely deposits of tax withholdings to avoid unnecessary penalties and interest.

Recommendations

The Board of Aldermen:

- 2.1 Discontinue authorizing additional compensation for services previously rendered.
- 2.2 Ensure payroll taxes are accurately calculated and paid timely.

Auditee's Response

The Board of Aldermen provided the following written responses:

- 2.1 *The city will no longer pay additional compensation to an individual after the services have been rendered. Additionally, edits will be made to the personnel manual detailing that such compensation will not be authorized.*
- 2.2 *All payroll taxes are now being paid monthly and are reconciled quarterly. The payments are made by the Accounting Clerk with oversight of the City Administrator and checked by the City Treasurer for accuracy.*

3. Bond Refinancing and Procurement

Bond refinancing and procurement practices need improvement.

3.1 Bond refinancing

The city sold \$3,755,000 in refunding revenue bonds in May 2013 to refund bonds issued in 2000 for extending and improving the sewerage system. The city did not solicit competitive proposals for its bond underwriter and did not use an independent financial advisor. Rather, the bond underwriter also served as the financial advisor for the bond refinancing. The lack of independent financial advice could result in the city not being adequately informed of bond issuance options or being unable to adequately evaluate bond proposals. The underwriter does not have a fiduciary responsibility to the city because their role is to purchase bonds from the issuer and sell them



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to investors. An underwriter's incentive is to have the bonds carry a higher interest rate to make the bonds more attractive to investors, while the city's incentive is to keep interest rates low to minimize borrowing costs. As a result, the underwriter cannot objectively represent the interests of both parties. For this reason, it is important that local governments do not rely on the underwriter to also provide financial advisory services. The underwriter received \$150,200 from the bond proceeds for his services.

While Missouri law does not require competition in selecting bond underwriters and financial advisors, a competitive procurement process is important to ensure services are obtained from the best qualified providers at a fair price. In addition, the financial advisor should be independent and free of conflict from the underwriter to help the city obtain lower interest rates and minimize borrowing costs.

The Municipal Securities Rulemaking Board (MSRB) is the regulatory agency that oversees firms involved in underwriting municipal bonds and providing financial advice, and has issued various rules that address the activities and roles of financial advisors and underwriters. MSRB Rule G-23 clarifies the financial advisor has a fiduciary responsibility to the governmental entity (issuer) and cannot act as both financial advisor and underwriter on the same bond issue. Also, MSRB Rule G-17 requires underwriters to disclose that unlike a municipal advisor, the underwriter has no financial duty to the issuer, and is not required to act in the best interests of the issuer. This rule also requires the underwriter to disclose potential or actual conflicts of interest.

3.2 Bidding and documentation

The city does not always solicit competitive bids or proposals for goods and services as required by city code. Section 135.080 of the city code, requires obtaining and recording at least 3 bids for purchases over \$1,000 and less than \$5,000. All supplies and contractual services estimated to cost more than \$5,000 shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting proposals.

- The city did not solicit competitive bids for insurance. According to the City Clerk, the city has used the same insurance broker since at least 2009 without periodically soliciting proposals or bids for insurance coverage. During the year ended December 31, 2013, the city paid \$34,043 for general insurance and \$47,052 for workers compensation insurance.
- The city did not solicit competitive proposals for legal services. On July 16, 2013, the Mayor, with Board approval, appointed the City Attorney at a rate of \$135 per hour. The Board increased the City Attorney's hourly rate to \$150 upon his reappointment in May 2014. During the 6 months ended December 31, 2013, the city paid \$16,014 for legal services.



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- During 2013, the city did not solicit competitive bids for computer software, license fees, and installation and training services costing \$6,171. The City Clerk indicated the software and related services came from a sole source vendor; however, this information was not documented.

Competitive procurement for major purchases ensures the city is complying with city code, provides a framework for economic management of city resources, and helps ensure the city receives fair value by contracting with the lowest and best bidders. Competitive procurement also ensures all parties are given an equal opportunity to participate in city business. Documentation of the selection process and criteria, including sole source procurement, should be retained to support purchasing decisions.

3.3 Conflicts of interest and independence

The Board did not document reasons for rejecting the lowest bid when it evaluated proposals submitted for auditing services. On November 19, 2013, the Board appointed the current City Treasurer, rescinded the contract award to the lowest bidder for auditing services, and awarded it to the current City Treasurer's former accounting firm at a cost not to exceed \$15,000 per year for 2013, 2014, and 2015. These actions create the appearance of a potential conflict of interest regarding the choice of audit firms. In addition, auditing the work prepared by the City Treasurer, a former partner of the accounting firm, creates some uncertainty that the firm was and will be able to complete the audits in an independent and unbiased manner. During 2014, the city paid \$15,000 for the audit of the year ended December 31, 2013.

Section 135.120 of the city code, requires recording in the Board minutes a full and complete statement of reasons when the award is not given to the lowest bidder. Complete documentation of reasons for rescinding a prior award and rejecting the lowest bid is necessary to support purchasing decisions and avoid the appearance of conflicts of interest. Also, Government Auditing Standards Sections 3.02 and 3.14d require auditors to be independent and defines a familiarity threat as the threat that aspects of a relationship with management or personnel of an audited entity, such as a close or long relationship, will lead an auditor to take a position that is not objective.

3.4 Written contracts

The city does not have written contracts with some service providers and certain outside parties.

- The city does not have a written contract with the City Attorney for legal services. Our review of one invoice dated September 24, 2013, for \$5,226 indicates the city paid \$135 per hour for City Attorney services and \$80 per hour for his staff's services. While the Board appointed the City Attorney at a rate of \$135, rates for staff services were not documented in the Board meeting minutes. The City Attorney provided



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a copy of an engagement letter dated 4 days prior to his appointment, indicating rates of \$145 per hour for attorneys and \$80 per hour for paralegal/support staff. The Board and City Administrator indicated they were not aware of this engagement letter and it was not signed by the Board or city personnel. As noted in section 3.2, the city paid \$16,014 for legal services during the 6 months ended December 31, 2013.

- The city does not have a written contract with the City Treasurer who was appointed in November 2013 at a compensation rate of \$150 per hour. City budget records for 2014 indicated pay for the City Treasurer is \$21,600 annually based on \$150 per hour times 12 hours per month. However, the city paid Maximist, LLC, a limited liability company organized by the City Treasurer, \$48,450 during 2014. This amount is significantly higher than budgeted for 2014 and amounts paid to the former City Treasurer in prior years. The former City Treasurer's rate of pay was \$50.54 per hour and the city paid him \$7,429 and \$12,711 during 2013 and 2012, respectively. Due to the significant hourly rate, it is important the Board require a written contract with the City Treasurer to ensure costs stay within budget constraints. Contract terms should include the hourly rate, maximum hours to be worked, specific duties to be completed, and provisions to require prior authorization for additional duties or other circumstances that would result in extra compensation.
- The city does not have a written contract with a local computer company that provides the city various services upon request including technical assistance for 2 computers through remote access. The city paid the company approximately \$2,900 during 2013.

Clear and detailed written contracts, including reporting requirements and provisions to allow for proper monitoring, are necessary to ensure all parties are aware of their duties and responsibilities, prevent misunderstandings, and ensure city monies are used appropriately and effectively. Additional terms should be included in contracts with information technology vendors to protect sensitive and confidential information. In addition, Section 432.070, RSMo, requires contracts for political subdivisions to be in writing.

Recommendations

The Board of Aldermen:

- 3.1 Solicit proposals to obtain the services of an independent financial advisor and an underwriter for any future bond sales and discontinue using an underwriter who also acts in a dual capacity as financial advisor.



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- 3.2 Solicit bids and proposals for all applicable purchases as required by city code and state law, and if sole source procurement is necessary, the city should retain documentation of these circumstances.
- 3.3 Document reasons when the award is not given to the lowest bidder to comply with city code.
- 3.4 Enter into written contracts defining services provided and benefits received. In addition, contracts for information technology services should contain sufficient terms to limit access to and protect system data and sensitive and confidential information.

Auditee's Response

The Board of Aldermen provided the following written responses:

- 3.1 *The city currently follows its purchasing procedures and will continue to do so. As per our procedures, bids/quotes are gathered for all purchases greater than \$300. Any outlays greater than \$5,000, as occurred in the case of the bond refinancing, would require competitive sealed bids. The City Administrator will ensure that any further refinancing uses both a properly selected underwriter and a properly selected independent financial advisor.*
- 3.2 *Bidding procedures, as outlined by the city's purchasing procedures, are currently being used for all purchases over their various thresholds. The city is currently bidding out insurance services. In the case of sole source purchasing, the Purchasing Officer will ensure that documentation of that circumstance is attached to the purchase order/requisition.*
- 3.3 *Going forward, the city will ensure the reasons are fully documented when the low bidder is rejected. Additionally, the Board will consider the independence of audit firms and other vendors when procuring such services.*
- 3.4 *The city will enter into written contracts defining services provided and benefits received. These will include, but not be limited to, the City Attorney, City Treasurer, and computer servicing. In the case of contracts for information technology services, we will ensure the inclusion of sufficient terms to limit access to and protect system data and sensitive confidential information.*



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4. Budgets, Financial Statements, and Excess Revenue Monitoring

City budgets do not include all elements required by state law and budget amendments were not filed timely. In addition, published financial statements did not include all required elements, and procedures to monitor excess revenues are not adequate.

4.1 Budgetary requirements

Annual budgets do not contain some elements required by state law. Budgets did not include a budget message and actual amounts for the 2 preceding years. In addition, the Board did not approve the 2014 budget until April 2, 2014.

Section 67.010, RSMo, requires the budget present a complete financial plan for the ensuing budget year and sets specific guidelines for the format. A complete budget should include a budget message and the 2 preceding years actual amounts. A complete and well-planned budget, in addition to meeting statutory guidelines, can serve as a useful management tool by establishing specific financial expectations for each area of city operations. It also assists in setting tax levies and utility rates and informing the public about city operations and current finances. In addition, Section 67.030, RSMo, states the governing body shall approve and adopt the annual budget prior to the beginning of the fiscal year.

4.2 Budget monitoring

The Board does not adequately monitor budget-to-actual receipts and disbursements because this information is not always provided to the Board. As a result, budget amendments for the 2013 budget were not approved until December 17, 2013, near the end of the fiscal year and after actual disbursements exceeded budgeted disbursements (appropriations) for some funds. In addition, when approving various line items to be amended in December, the Board also voted to amend the 2013 budget to final actual numbers even though those actual numbers were not known at that time.

Failure to adhere to limits imposed by budgets weakens the Board's effectiveness in controlling the city's financial condition. In addition, the practice of amending the budgets to actual numbers at year-end disregards the purpose of the budget as a planning and monitoring tool. The Board should ensure monthly budget-to-actual comparisons are received and reviewed prior to approving disbursements.

Section 67.040, RSMo, requires political subdivisions to keep disbursements within amounts budgeted, but allows for budget increases if the governing body officially adopts a resolution setting forth the facts and reasons. In addition, Section 67.080, RSMo, provides that no disbursement of public monies should be made unless it is authorized in the budget. Proper monitoring and amending prior to disbursing funds is necessary for the budget to be an effective management tool and comply with state law.



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4.3 Published financial statements

The city did not comply with state law regarding publishing financial statements. Financial statements for the 6 months ending June 30, 2013, and December 31, 2013, did not include a full and detailed account of receipts and disbursements. Instead, the city published summary statements of receipts and disbursements and the fund balance of its various funds.

Section 79.160, RSMo, requires the Board to prepare and publish financial statements of each 6 month period that include a full and detailed account of the receipts, disbursements, and indebtedness of the city.

4.4 Monitoring of excess revenues

The city did not calculate the percent of annual general operating revenue from fines and court costs related to traffic violations, determine whether excess revenues should be distributed to the state Department of Revenue, and provide an accounting of the percent in its annual financial report for the year ended December 31, 2013, as required by state law.

Effective August 28, 2013, Section 302.341.2, RSMo, was amended, reducing the threshold for remitting excess revenues to the state, and requiring cities provide an accounting for the percent of annual general operating revenue from fines and court costs in its annual financial report submitted to the State Auditor's office as required by Section 105.145, RSMo. Section 302.341.2, RSMo, further provides that a city that is noncompliant with the law and fails to make an accurate or timely report "... shall suffer immediate loss of jurisdiction of the municipal court of said city ... on all traffic-related charges until all requirements of this section are satisfied." Thus, it is imperative the city work with the court to obtain the required traffic violation data and file annual financial reports that provide the required accounting.

Recommendations

The Board of Aldermen:

- 4.1 Prepare annual budgets, which contain all information required by state law, and document its approval of budgets prior to the beginning of the fiscal year.
- 4.2 Properly monitor actual disbursements compared to budgeted disbursements, and ensure actual disbursements do not exceed budgeted disbursements.
- 4.3 Ensure the city's published semiannual financial statements present all financial information required by state law.
- 4.4 Develop procedures to monitor for excess revenues from traffic violations and provide an accounting for the percent of annual general operating revenue from fines and court costs in its annual financial report submitted to the State Auditor's office.



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Auditee's Response

The Board of Aldermen provided the following written responses:

- 4.1 The 2015 budget shows actual amounts for the previous three years, includes a budget message, and was approved in late January. Every effort will be made to approve the 2016 budget in late 2015. The Board will then endeavor to continue to approve timely budgets that include all information required by state law.*
- 4.2 Budget to actual disbursements are currently provided to the Board on a monthly basis. The budget will be monitored closely to ensure that any required amendments are made prior to financial outlays.*
- 4.3 Full financial statements were published for the periods ending June 30, 2014, and December 31, 2014, and the city will continue to ensure that such statements are published accurately and in a timely manner.*
- 4.4 The city will differentiate between income from traffic tickets and other tickets. The total traffic ticket revenues will be placed on the annual financial report along with a calculation of the ratio of traffic ticket revenue to general operating revenue.*

5. Utility Controls and Procedures

Controls over utility deposits, adjustments and compliance with city ordinances on late payments need improvement.

5.1 Utility deposits

The city does not periodically reconcile customer utility deposit balances reported in the city accounting records to the total deposit amount held in the customer deposits bank account. As of May 31, 2014, the customer deposits account balance was \$81,848 and accounting records showed the balance should have been \$92,642, indicating a shortage of \$10,794. City personnel indicated the shortage is likely due to utility deposits being incorrectly deposited into the sewer operations bank account instead of the customer deposits bank account.

Periodic reconciliation of the customer utility deposit accounting records to the available cash balance is necessary to ensure sufficient funds are available for potential utility deposit liabilities. Such reconciliations would allow for prompt detection of discrepancies.

5.2 Utility adjustments

The city does not provide adequate oversight of adjustments posted to the utility computer system by the Accounting Clerk. The Accounting Clerk also prepares bills and occasionally posts payments to customer accounts. The city uses a form to document the Board or Mayor's approval of adjustments and this form is used by the Accounting Clerk to make the adjusting entries in the system. The City does not have procedures in place



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to compare actual adjustments posted to the utility system to the approval forms to ensure all adjustments posted by the Accounting Clerk are proper.

Requiring someone independent of receipting and recording functions to compare a periodic report of actual adjustment transactions to the approval forms would help ensure the appropriateness of all adjustments.

5.3 Late penalties

City personnel are not following the city's ordinance regarding late payment penalties. Ordinance 710.060 states that a utility bill will be considered delinquent if payment is not received by the 20th day of the month and a late payment penalty of 10 percent will be added to each delinquent bill. Late payment penalties were not assessed to delinquent accounts until the 25th of February, June, and October 2013, and the 27th of March and September 2013.

It is not good public policy to make exceptions to city ordinances, and failing to enforce city ordinances related to utility services does not provide equitable treatment of all utility users and reduces the incentive for customers to make timely payments.

Recommendations

The Board of Aldermen:

- 5.1 Periodically reconcile customer deposits per accounting records to the available cash balance for customer deposits and promptly investigate any differences.
- 5.2 Require an independent review of all utility system adjustments to the adjustments approval forms.
- 5.3 Ensure utility ordinances for late payment penalties are followed.

Auditee's Response

The Board of Aldermen provided the following written responses:

- 5.1 *The city is currently reconciling all customer deposits to accounting records. The Accounting Clerk estimates that 75 percent of customer accounts have been properly researched to ensure the presence of a proper deposit. The City Administrator will ensure that this research is completed in a timely manner and that the total amount of deposits owed equals the total amount reflected in the customer deposits bank account. We will continue to perform periodic reconciliations and promptly investigate any differences to ensure sufficient funds are available for potential deposit liabilities.*
- 5.2 *The City Administrator researches and signs off on all adjustments. Going forward, the Accounting Clerk will generate a monthly corrective billing report showing all utility billing adjustments*



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performed. The City Administrator will document his review of the corrective billing report to approval forms.

- 5.3 *Late penalties are assessed to all accounts that have not been received by the 20th of the month. As stated in section 1.3 above, the only payments received after the 20th that are not assessed a penalty are the monies taken from the drop box at 8:00 a.m. the morning of the 21st (the City assumes that the payment was placed in the box on the 20th after close of business). If the 20th occurs on a weekend, mail in the mailbox on Monday morning is also considered on time.*

The city will pass a resolution detailing this policy and the City Administrator will ensure that it is followed properly.

6. Sunshine Law

The Board of Aldermen did not always comply with the Sunshine Law.

6.1 Closed minutes

Some topics discussed and voted on in closed Board meetings were not allowable under the Sunshine Law. For example, the Board approved changes in duties for the Accounting Clerk and Court Clerk in a closed meeting on June 14, 2013, rather than in an open meeting. In addition, personnel decisions made in closed meetings were not always made public as required by the Sunshine Law. For example, the city terminated the Accounting Clerk in a closed meeting on November 12, 2013, but did not release the information to the public after 72 hours.

The Sunshine Law, Chapter 610, RSMo, limits discussions in closed meetings to only those items specifically allowed by law. The Sunshine Law, Chapter 610, RSMo, also requires that any vote on a final decision to hire, fire, promote or discipline an employee shall be made available with a record of how each member voted to the public within 72 hours of the close of the meeting.

6.2 Record requests

The city does not timely respond to public record requests and does not maintain a log of record requests received to ensure all requests are handled in compliance with the Sunshine Law. City policy designates the City Clerk as custodian of records responsible for responding to public record requests. The City Clerk did not respond to a Sunshine Law request for ordinances and agreements dated February 27, 2013, a second request dated April 19, 2013, and a third request dated July 11, 2013. The current City Attorney responded to the requestor on August 15, 2013, and the City Clerk fulfilled part of the request on August 19, 2013, but did not complete her research and finalize the request until October 4, 2013. In addition, the City Clerk does not maintain a log of public record requests and does not always document the date the request is received. As a result, the proper handling of all record requests could not be determined.



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Section 610.023, RSMo, provides each request for access to public records shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request was received. To ensure compliance with state law, the city should document adequate information in a log to determine if requests are completed timely and all requests are adequately filled. Necessary information includes, but is not limited to, the date of request, a brief description of the request, the date the request is completed or reason why the request cannot be completed, and any associated costs of filling the request.

Recommendations

The Board of Aldermen:

- 6.1 Ensure only topics allowed by state law are discussed in closed Board meetings and ensure the final disposition of personnel matters discussed at closed meetings is made public as required by state law.
- 6.2 Ensure requests for information are responded to timely and maintain a public request log to help ensure compliance with state law.

Auditee's Response

The Board of Aldermen provided the following written responses:

- 6.1 *The Board and city staff received Sunshine Law training on March 3, 2015, and going forward, the city will ensure that discussions in closed session are appropriate. In addition, the final disposition of personnel matters discussed in closed meetings will be released in a timely manner.*
- 6.2 *All public record requests are fulfilled by the City Clerk with help from necessary departments. However, the City Administrator is notified of all requests. The City Clerk will maintain a public request log to help ensure compliance with state law. In addition, the City Administrator will be presenting a Sunshine Law policy to the Board for adoption in the near future.*

7. Capital Assets

The city does not maintain records of its capital assets including buildings, utility system infrastructure, equipment, and other property. Additionally, assets are not tagged for specific identification, and an annual physical inventory is not performed.

Adequate capital asset records and procedures are necessary to provide controls over city property; safeguard city assets that are susceptible to loss, theft, or misuse; and provide a basis for proper financial reporting and insurance coverage.



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Recommendation

The Board of Aldermen ensure complete and detailed capital asset records are maintained that include all pertinent information for each asset such as tag number, description, cost, acquisition date, location and subsequent disposition. The Board should also properly tag, number, or otherwise identify all applicable city property and conduct and document an annual inventory.

Auditee's Response

The Board of Aldermen provided the following written response:

The city will create a detailed capital asset ledger, properly tag applicable city property, and perform and document an annual physical inventory of capital assets.

City of Kimberling

Organization and Statistical Information

The City of Kimberling is located in Stone County. The city was incorporated in 1973 and is currently a fourth-class city. The city employed 17 full-time employees and 1 part-time employee on December 31, 2013.

City operations include law enforcement, utilities (water and sewer), street maintenance, and recreational services.

Mayor and Board of Aldermen

The city government consists of a mayor and four-member board of aldermen. The members are elected for 2-year terms. The mayor is elected for a 2-year term, presides over the board of aldermen, and votes only in the case of a tie. The Mayor is paid \$200 per month and the Board of Aldermen members are paid \$30 per meeting. The compensation of these officials is established by ordinance. The Mayor and Board of Aldermen, at December 31, 2013, are identified below.

Joseph M. Schrodt, Mayor (1)
Robert Fritz, Alderman, Ward 1 (2)
Carl Newberry, Alderman, Ward 1 (3)
Maurice Mires, Alderman, Ward 2 (4)
Ken Bowling, Alderman, Ward 2 (5)

(1) Joseph M. Schrodt's term ended in April 2014 and Robert Fritz was elected as Mayor.
(2) Robert Fritz's term ended in April 2014 and Lowell Mielke was elected as Alderman, Ward 1.
(3) Carl Newberry's term ended in April 2015 and Virgil Moore was elected as Alderman, Ward 1.
(4) Maurice Mires' term ended in April 2014 and Michelle Stump was elected as Alderwoman, Ward 2.
(5) Ken Bowling resigned in May 2014. Harold Henry was appointed in June 2014, and elected in April 2015, as Alderman, Ward 2.

Other Principal Officials and Office Personnel

The City Attorney, City Treasurer, City Clerk, City Administrator, Police Chief, Municipal Judge, and City Prosecuting Attorney are appointed positions. The Accounting Clerk and Administrative Assistant are hourly positions. The city's other principal officials and office personnel at December 31, 2013, are identified below.

Russ Schenewerk, City Attorney (1)
Larry Brown, City Treasurer (2)
Judith Seager, City Clerk (3)
Vacant, City Administrator (4)
Craig Alexander, Police Chief (5)
Mark Rundel, Municipal Judge
Eric Chavez, City Prosecuting Attorney
Cathy Adams, Accounting Clerk (6)
Vacant, Administrative Assistant (7)



City of Kimberly Organization and Statistical Information

- (1) Russ Schenewerk was appointed as City Attorney in July 2013. Hank Griffin served as City Attorney from 2006 to June 2013.
- (2) Larry Brown was appointed as City Treasurer in November 2013. Martin Eastwood served as City Treasurer from May 1999 to August 2013.
- (3) Judith Seager served as City Clerk from August 2009 to October 2014. Patricia Zimdars served as City Clerk from January 2015 to February 2015. Barbara Hubbard was promoted from Administrative Assistant to City Clerk in April 2015.
- (4) The position of City Administrator was vacant during 2013. Douglas Polen is the current City Administrator and was appointed in September 2014.
- (5) Craig Alexander was appointed as Police Chief in October 2013. Paul Howerton served as Police Chief from May 1981 to August 2013.
- (6) Cathy Adams was hired as Accounting Clerk in December 2013. Tara DuShane served as Accounting Clerk from December 2004 to November 2013.
- (7) Jamie Pearson served as Administrative Assistant from November 2011 to March 2013. Annette Skipper served as Administrative Assistant from May 2013 to October 2013. Connie Wilson served as Administrative Assistant from November 2013 to December 27, 2013. Barbara Hubbard served as Administrative Assistant from January 2014 to April 2015. This position is currently vacant.