

**EXAMINATION OF CERTAIN POLICIES, PROCEDURES,
AND FINANCIAL ACTIVITY OF THE
CITY OF CAMPBELLSVILLE, KENTUCKY**



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December 21, 2017

Tony Young, Mayor
City of Campbellsville
110 South Columbia Avenue # 8
Campbellsville, KY 42718

The Auditor of Public Accounts (APA) has completed its examination of the City of Campbellsville (City). This letter summarizes the procedures performed and communicates the results of those procedures.

Examination procedures included interviewing staff concerning the City's environment and operating activities; reviewing financial transactions associated with the City for the time period of July 1, 2014 through January 31, 2017, except when otherwise noted; and reviewing additional financial activity of the City.

The purpose of this examination was not to provide an opinion on the financial statements, but to ensure appropriate processes are in place to provide strong fiscal management and oversight of the financial activity of the City and to review specific issues brought to the attention of this office.

Detailed findings and recommendations based on our examination are presented in this report to assist all parties involved in implementing corrective action. Overall, these findings identify consistent failures to follow established procurement laws and policies, lack of controls over use of public funds, and ethics concerns. Due to the issues noted, this report will be referred to the City of Campbellsville Board of Ethics for consideration.

If you have any questions or wish to discuss this report further, contact me or Libby Carlin, Executive Director.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike H.", written over a horizontal line.

Mike Harmon
Auditor of Public Accounts



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Examination of the City of Campbellsville, Kentucky

Examination Objectives

The purpose of this examination was to evaluate concerns regarding certain financial activities and other operations of the City of Campbellsville (City) to ensure appropriate processes are in place to provide strong fiscal management and oversight. The scope of this examination included examining records, activities, and other information for the period of July 1, 2014 through January 31, 2017, unless otherwise specified.

City of Campbellsville Background

The City of Campbellsville, located in south central Kentucky, serves as the county seat of Taylor County. As of the 2010 U.S. Census, the City has a population of 9,108. The City is organized and governed under a Mayor-Council form of government, the powers and duties of which are addressed in KRS 83A.130. Under this form of government, the mayor exercises the executive authority of the city and is elected to serve a four-year term. The Council is made up of 12 members and serves as the legislative body of the City. Members are elected to a two-year term, and eight of the 12 members have served three or more terms.

The City operates 14 budgetary departments, including: General Government, Water and Sewer, Police, Communications, City/County Emergency Medical Services, Fire, Fire and Rescue, Sanitation, Landfill, Streets, Garage, Parks and Recreation, Swimming Pool, and Planning and Codes.

Findings and Recommendations

Finding 1: City Procurement Practices Did Not Comply With State Law And City Policy

The City routinely procured goods and services in excess of \$20,000 between March 2013 and March 2017 without following the required competitive bidding process. City policies and KRS 424.260 require the City to procure certain services through a competitive bid process that includes advertising the City's intent to accept bids before awarding the contract to a vendor.

Recommendations: We recommend the City comply with KRS 424.260 and its own procurement standards. We also recommend City personnel with any level of procurement authority receive formal training related to both KRS 424.260 and that the City's procurement standards. The City should document via a written contract any professional services or significant agreement the City enters into.

Finding 2: The City Entered Into No-Bid Contracts With City Officials, Creating Potential Conflicts Of Interest

The City procured over \$188,000 in goods and services from businesses owned by three council members and a business owned by the Mayor's son between July 1, 2014 and March 22, 2017. In addition to creating potential conflicts of interest, two of these transactions exceeded the \$20,000 threshold and were not procured following competitive bidding requirements. The City failed to advertise a medic unit and did not perform a public bid opening as required by the City's procurement policy. The City did not advertise they were accepting bids for an air conditioning service and did not perform a public bid opening as required. The City procured flowers and embroidery services valued

Executive Summary (Continued)

at approximately \$1,133 from a business owned by the Mayor's son and daughter-in-law. According to a review of City expenditures, the City engaged a council member's business to perform vehicle air conditioning repair work and paid his business \$1,056.91 between July 1, 2015 and January 31, 2017. Failure to follow procurement laws and policies is especially troubling in these instances where policies designed to address conflicts of interest were also not followed.

Recommendations: We recommend the City comply with KRS 61.252, the City's procurement standards, and the City's Code of Ethics by evaluating its existing contracts and purchasing practices, and implementing procedures to eliminate potential conflicts of interest. This finding will be referred to the City Ethics Board.

Finding 3: City Officials Did Not Complete Statements Of Financial Interest Required By The City's Local Ethics Code And KRS 65.003(3)(b)

Auditors requested completed Statements of Financial Interest (statement) on file with the City from July 2014 through January 2017. The only statements provided prior to 2017 were eight statements from 2011. Initially, the City Clerk provided auditors with only four statements, including one for each of the three City Council members elected to office in the fall of 2016. The statements are maintained by the City Clerk. Also, the 2017 Statement of Financial Interest forms completed by City officials and personnel omitted a question required by the City's Code of Ethics.

Recommendations: The City should ensure compliance with Ordinance 94-005 (City Code of Ethics) by requiring all applicable City officials and employees to complete a Statement of Financial Interest. The City Clerk should review all statements submitted to ensure each required statement is complete and retain the statements as prescribed by the Ordinance. Additionally, procedures should be established to

ensure that potential conflicts of interest identified through these disclosures are avoided in the procurement process.

Finding 4: The City Did Not Properly Safeguard Public Assets And Spent Public Funds Without Appropriate Documentation Or Policies

Between July 1, 2014 and March 22, 2017, the City spent \$15,695.36 in City funds on flowers, gifts, and meals, with a debit card used to incur \$2,256 of this total. The documentation for the majority of these purchases did not have sufficient detail to justify the use of public funds, such as names of individual attendees at meals, gift recipients, or details of the items purchased. During the examination period, the City utilized the debit cards for approximately \$229,080 in purchases. These debit cards are linked directly to public bank accounts, which creates a security risk if the cards are compromised. Between July 1, 2014 and March 22, 2017, a sample of expenditures identified meal purchases totaling approximately \$9,900, and included nearly \$1,400 spent for meals at local restaurants, over \$500 for meeting meals catered from local restaurants, and \$5,910 spent for catered holiday meals for employees. City records identified the City expended over \$4,080 between July 1, 2014 and March 22, 2017 for gift cards or gift certificates for City employees. The largest expense was incurred in December 2014 when the City purchased 154 gift cards valued at \$25 each as holiday gifts for City personnel. Expenditures reviewed also revealed that the City purchased retirement gifts during the time period examined, including two watches, a necklace, and a gift card to a sporting goods retail store. According to City records, the City expended approximately \$4,000 during the examination period for purchases from six floral shops.

Recommendations: The City should eliminate the use of debit cards at all departments. The City should develop and implement a user agreement for individuals assigned a City credit

Executive Summary (Continued)

card or debit card to sign, acknowledging their understanding of the City's expectations. The City should only spend public funds on necessary public expenses, which in the absence of travel or extraordinary circumstances does not include meals.

Finding 5: The City Did Not Properly Account For Regulatory License Fees Collected From The Sale Of Alcohol As Required By KRS 243.075

The City began allowing for the sale of alcohol under limited conditions within City limits in July 2008 and later expanded sales in November 2016. In addition to authorizing the sale of alcohol in the City, the City Council also established alcohol licensing and regulatory fees as permitted by KRS 243.070 and KRS 243.075. Regulatory license fees established under KRS 243.075 must be deposited into a segregated fund and may only be used for additional policing, administration, and regulation expenses due to the repeal of prohibition. The City did not segregate the accounting of these funds as required by KRS 243.075 until March 2017, when a separate bank account was established to maintain these funds.

Recommendations:

The City should continue to maintain segregated accounts for these funds to ensure compliance with KRS 243.075 and track the use of these funds to ensure funds generated by the sale of alcohol are properly used as intended by law. We recommend that the City implement procedures to ensure that all restrictions associated with the collection and use of funds are identified to reduce the risk of future non-compliance.

Conclusion

Overall, these findings identify consistent failures to follow established procurement laws and policies, lack of controls over use of public funds, and ethics concerns. Due to the issues noted, this report will be referred to the City of Campbellsville Board of Ethics for consideration.

Background

Impetus and Objectives of the Examination

The Auditor of Public Accounts (APA) initiated a special examination of the City of Campbellsville in response to concerns received. The purpose of this examination was to evaluate certain financial activities and other operations of the City of Campbellsville (City) to ensure appropriate processes are in place to provide strong fiscal management and oversight. The examination was not performed to provide an opinion on the City's financial statements or to duplicate work of annual financial statement audits. Any weaknesses identified by the APA as part of this examination are presented in this report, along with recommendations to strengthen and improve internal controls to ensure the City's financial management activities are accurate and transparent.

Scope and Methodology

The scope of this examination included examining records, activities, and other information for the period of July 1, 2014 through January 31, 2017, unless otherwise specified. To fully assess some matters, the time period of certain documents reviewed and issues discussed with those interviewed may have varied. The APA conducted the following procedures:

- Reviewed information related to the City, such as policies, procedures, and council meeting minutes;
- Analyzed financial information, such as accounting ledgers, bank statements, invoices, financial statement audits, and payroll tax documentation;
- Interviewed relevant parties, including the Mayor, City Clerk, the Chief Operations Officer (COO) for the City Water and Sewer Company, and various City Council members and City employees; and
- Performed other procedures deemed necessary.

City of Campbellsville Structure

The City of Campbellsville, located in south central Kentucky, serves as the county seat of Taylor County. As of the 2010 U.S. Census, the City has a population of 9,108. The City is organized and governed under a Mayor-Council form of government, the powers and duties of which are addressed in KRS 83A.130. Under this form of government, the mayor exercises the executive authority of the city and is elected to serve a four-year term. Kentucky law does not restrict the number of terms a mayor may serve. The current Mayor was first elected to office in 2010 to serve a four-year term beginning January 1, 2011, and was subsequently reelected in 2014.

Background

The Council is made up of 12 members and serves as the legislative body of the City. Members are elected to a two-year term, and eight of the 12 members have served three or more terms. Of the remaining four council members, two are beginning their second term in office and two members were newly elected in 2017.

The City operates 14 budgetary departments, including: General Government, Water and Sewer, Police, Communications, City/County Emergency Medical Services, Fire, Fire and Rescue, Sanitation, Landfill, Streets, Garage, Parks and Recreation, Swimming Pool, and Planning and Codes, all of which are reported in the annual financial statement audit. As part of its operations, the City oversees the personnel and operations of an E911 Center organized under the City Police Department and located in a facility jointly owned by the City and Taylor County.

KRS 96.320 allows cities that own a waterworks to operate its waterworks as a department of the city or appoint a commission to operate the waterworks. Prior to 2005, the City waterworks were operated by a commission appointed by the City Council. In June 2005, the City Council passed Ordinance 05-04, which made the Water and Sewer Company a department of the City and no longer operated by a commission. In December 2014, the Mayor, who also serves as General Manager of the Water and Sewer Department, established a committee of four members from the City Council to assist the Water and Sewer Department with projects. Additionally, the Water and Sewer Committee annually reviews the City's financial statement audit report to determine if water and sewer rates should be revised and makes recommendations to the City Council for approval.

As required by KRS 91A.040, the City's annual financial statements are audited each year by an independent Certified Public Accountant (CPA). According to the Department for Local Government, the City was current on its required submissions of annual audits and uniform financial information reports at the time of this examination. Based on the most recent available financial statement audit of fiscal year (FY) 2016, the City reported total assets of \$47,661,106, total liabilities of \$21,034,598, and a total net position of \$27,964,480.

Findings and Recommendations

Finding 1: City Procurement Practices Did Not Comply With State Law And City Policy

The City routinely procured goods and services in excess of \$20,000 between March 2013 and March 2017 without following the required competitive bidding process. The types of goods and services identified in the sample as procured in this manner included, but were not limited to, certain civic center renovations, paving services, vehicles, and equipment. The only City purchases examined that appeared to follow bid requirements were those related to major water and sewer line projects. City policies and KRS 424.260 require the City to procure certain services through a competitive bid process that includes advertising the City's intent to accept bids before awarding the contract to a vendor. City procurement policies also require bids to be opened in public. Additionally, in two instances, contracts were awarded to businesses owned by City Council members, which raises additional concerns that competition may have been impaired due to potential conflicts of interest.

City records indicate that quotes from other vendors were obtained in eight of the 21 instances identified in which the City failed to advertise for competitive bids. However, the City did not obtain the quotes through a sealed bid process. City personnel do not appear to understand when it is appropriate to advertise and seek competitive bids and when it is appropriate to simply obtain vendor quotes, indicating a need for formal procurement training. Additionally, proper approvals were not consistently documented in supporting documentation for expenditures exceeding \$100.

Procurement Requirements

Kentucky cities must comply with one of two statutory procurement procedures. If the city has adopted the local model procurement code, KRS 45A.343 to KRS 45A.460, then that code applies. If the city has not adopted the model procurement code, then KRS 424.260 applies. Both statutes require cities to provide an opportunity for competition and create the opportunity to receive and compare multiple bids. Because the City has not adopted the local model procurement code, the City must follow KRS 424.260, at a minimum. In addition to these requirements, a city may implement more stringent, additional controls over its procurement practices.

KRS 424.260 and City procurement policy both require certain expenditures exceeding \$20,000 to be competitively bid for any contract, lease, or other agreement for materials, supplies, equipment, or nonprofessional services. Advertisement for solicitation of bids must be published at least once, but may be published more, provided one publication occurs not less than seven days or more than 21 days prior to the last day to submit bids. City standards also require that bids be opened in a public forum.

Findings and Recommendations

Civic Center Renovations

According to the City Clerk, Civic Center renovations started in March 2013 and continued until February 2016, with total costs exceeding \$230,000. While the City attempted to manage and perform the renovations in-house with the use of City personnel, the Mayor and City Clerk acknowledged outside vendors were used during the process. City records document a single construction company was paid almost \$47,000 between April and August 2013 for various jobs associated with the Civic Center renovations. Rather than advertising for bids for this work, it appears the City contacted the vendor to perform various work through the four-month period.

As part of the Civic Center renovations, the City also procured a sound system from a media company at a cost of \$24,190. The cost of the sound system was paid in two installments of \$12,095 each, as invoiced by the vendor. The final payment for this system was made on September 5, 2013. Between November 2013 and January 2014, the City expended an additional \$12,113 for services from this same vendor associated with the civic center project. The Mayor stated the additional services were necessary because there were sound quality issues and he was trying to get the issues addressed quickly, indicating this is why the City had not obtained bids for this service. However, the cost of the sound system alone exceeded \$20,000. Therefore, the City should have sought bids for the equipment through a competitive bidding process.

Paving Services

Between July 1, 2015 and March 31, 2017, the City paid over \$556,513 to one vendor providing paving services on behalf of the City Street Department and the Water and Sewer Department. Each year these services cost the City well over \$100,000, but the City did not seek competitive bids for paving. The City Clerk stated most of the paving work performed on behalf of the City is patching or repairing smaller areas and there is only one vendor in the area who will perform such work. The City Clerk noted the City is only aware of two companies in the area that blacktop, and one of the two declines to bid on any job except to blacktop an entire street.

Although the City may not be aware of other local vendors willing or able to perform this type of service, the City is still required to advertise for such services. Without formal advertising, the City may not be aware of additional vendors willing to provide alternative bids to the City on any particular project. When a competitive bidding process is used, it creates the potential for multiple bids. Even if there is one resulting bid, the chance of competitive bids before the process is closed may influence the bidder to present the most competitive price and terms. Competitive bidding also serves as a transparent process for procurement. If

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competitive bidding is not feasible, City policy allows for non-competitive negotiations. However, Section I.D. of the City's procurement standards states, in part:

[t]he city may purchase foods and services through non-competitive negotiations when it is determined in writing by the mayor that competitive negotiation or bidding is not feasible and that:

1. An emergency exists which will cause public harm as a result of the delay caused by following competitive purchasing procedures, or
2. The product or service can be obtained only from one source, or
3. The contract is for the purchase of perishable items purchased on a weekly or more frequent basis, or
4. Only one satisfactory proposal is received through RFP or RFQ, or
5. The state has authorized that particular type of non-competitive negotiation (example – the procedure of services by an Area Development District).

There was no written documentation provided stating that the Mayor made a written determination that bidding was not feasible, or that any of the conditions listed in the City policy existed related to these or other procurements examined.

Vehicles

The APA received concerns regarding specific vehicle and equipment purchases. City personnel told auditors that many of the vehicles purchased by the City were bought using state contract pricing. However, documents for a vehicle purchased for use by the Mayor indicated the dealer provided discounts instead of prices established by a state price contract. Auditors reviewed five additional vehicle purchases, each of which followed the same process. The Water and Sewer Department COO explained that the City procures a vehicle by sending a City employee to multiple dealerships and tells the dealer that the City qualifies for state contract pricing, then purchases the vehicle at the lowest offered price.

City policy and state law permit the procurement of goods and services through a valid state price contract. State price contracts are agreements entered into between a specific vendor for precise specifications with the Kentucky Finance and Administration

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Cabinet (FAC) as a result of a competitive bidding process. The dealer from which the City procured the Mayor's assigned vehicle confirmed that what it labeled "KY State Bid Concession" on an invoice to support the purchase is a manufacturer discount, not a price established under a state price contract with the dealership. A FAC official advised that state price contracts which cities are eligible to participate in are not established with vehicle manufacturers. Furthermore, no vehicle matching the description of the vehicle purchased for use by the Mayor was identified as available for purchase on a state price contract at the time of the City's purchase. The City failed to comply with state law or its own procurement policy by not advertising for competitive bids or purchasing pursuant to a state price contract.

Other Instances

There were also other instances in which the City's purchasing practices did not comply with the City's policies. During our examination period, the City paid one vendor over \$1,050,000 for waste disposal services without following procurement laws set forth above, or properly documenting an exception to bid requirements. The Water and Sewer Department paid a different vendor over \$716,000 for coagulant between July 2014 and March 2017, again without following procurement rules.

City procurement standards also require purchases exceeding \$100 to be "memorialized and supported by a purchase order approved by the mayor." If it is not feasible or practical to prepare a purchase order, the standards require a written finding be documented to this effect. Such approvals or written findings were not consistently maintained in supporting documentation reviewed. See Finding 2 regarding additional procurement issues related to transactions with city officials.

Lack of Written Contracts

Although not a primary objective of this examination, auditors noted that the City did not have written contracts with certain vendors. Specifically, the City did not have a current written contract with a vendor providing solid waste disposal, a vendor providing the City coagulant used for water treatment, or with the City Attorney. The City spent over \$100,000 with each of these vendors during the period examined. Written agreements define the services to be provided, set the rates at which the services will be invoiced, and often identify in advance any related expenses and liabilities that may occur incident to the work. Maintaining such documentation enables the City to exercise greater oversight of its spending, provides a greater level of accountability and legal protection, and allows for greater transparency.

Findings and Recommendations

While City personnel and officials interviewed seemed to understand the need for a competitive procurement process, their understanding was based on internal discussions and past practices rather than formal training on the City's procurement standards or KRS 424.260. For example, when discussing the process followed to procure an air conditioning unit and installation service (discussed in Finding 2), the Water and Sewer Department COO stated "[w]e've been of the understanding that obtaining quotes can substitute for the sealed bid process." She said her understanding was based on past practice and guidance from the previous Mayor. The Mayor indicated that he relied on the City Clerk to assist him with ensuring procurements over \$20,000 were properly made, stating each time such a procurement was made he would sit down with the City Clerk to review what is required. However, the Mayor stated, "I did not even know we had a policy until [APA] requested it." After auditors requested the City's procurement standards, the Mayor reviewed the written standards, which were established by the City on August 22, 2005.

Recommendations

We recommend:

- The City comply with KRS 424.260 and its own procurement standards. Specifically, the City should ensure a competitive bidding process is used when the aggregate amount of payments to a vendor for a project is reasonably expected to exceed \$20,000. If a competitive process is not followed, the City should document a written determination that competitive negotiation or bidding is not feasible in accordance with City procurement standards. Alternatively, the City may choose to adopt and follow the provisions of KRS 45A.345 to KRS 45A.460.
- The City personnel with any level of procurement authority receive formal training related to both KRS 424.260 and the City's procurement standards. As part of a formal training session, employees with procurement authority should be given a copy of the requirements. The City should also incorporate into the training the consequences for failing to adhere to the requirements, and maintain documentation of who has completed the training. City officials should consult with the City Attorney and written guidance regarding procurement laws when questions arise rather than rely solely on past practices.
- The City document via a written contract any professional services or significant agreement it enters into. Contracts should specify the services the contractor will perform and the terms of the contract including the amount to be paid or a schedule of rates for services provided.

Findings and Recommendations

Finding 2: The City Entered Into No-Bid Contracts With City Officials, Creating Potential Conflicts Of Interest

The City procured over \$188,000 in goods and services from businesses owned by three council members and a business owned by the Mayor's son between July 1, 2014 and March 22, 2017. In addition to creating potential conflicts of interest, two of these transactions exceeded the \$20,000 threshold and were not procured following competitive bidding requirements.

City procurement standards, Section V establishes a Code of Conduct for officials, employees or designated agents of the city. Section V states, in part:

No elected official, employee or designated agent of the city will take part an [sic] interest in the award of any procurement transaction if a conflict of interest, real or apparent, exists. A conflict of interest occurs when the official, employee or designated agent of the city, partners of such individual, immediate family member, or an organization which employs or intends to employ any of the above has a financial or other interest in any of the competing firms.

City Code of Ethics (Ordinance 94-005) and KRS 61.252 restrict City officials and employees from participating in contracts with the City. Section 6(A) of the Code of Ethics specifically states, in part:

[n]o officer or employee of the city or any city agency shall directly or through others undertake, execute, hold, or enjoy, in whole or in part, and [sic] contract made, entered into, awarded, or granted by the city or a city agency...

While the ordinance goes further to identify potential exceptions to this restriction, review of supporting documentation relating to these expenditures found no evidence to indicate any exception requirement had been met.

Additionally, section 5 of the City Code of Ethics requires every City officer and employee to comply with a certain standard of conduct. Section 5(A) states:

[n]o officer or employee, or any immediate family member of any officer or employee, shall have an interest in a business or engage in any business, transaction, or activity, which is in substantial conflict with the proper discharge of the officer's or employee's public duties.

Findings and Recommendations

Medic Unit

The City failed to advertise a medic unit and did not perform a public bid opening as required by the City's procurement policy. On March 2, 2015, the City Council approved the purchase of a medic unit for \$123,585 after receiving two quotes from separate vendors. The contract was awarded to the lower of the two bidders, which was a business owned by a council member. The council member had abstained from the vote for the awarding of the contract. The EMS Director stated he had contacted approximately four vendors to see if they would be willing to provide a quote to the City and then submitted the specifications for the medic unit to those vendors. The EMS Director's correspondence to the four vendors requesting quotes was dated February 11, 2015, and directed quotes to be submitted to him by February 28, 2015. The EMS Director acknowledged the quotes were submitted to him and not opened in a public forum. However, he stated he did not share the vendor quotes with anyone until presented to the City Council for their selection and approval.

The council member stated when he first took office the question was raised about the propriety of doing business with the City as a City official. He stated that he received a Kentucky Attorney General Opinion when he came into office and understood that if he did not participate in designing the specifications, took no part in the actual procurement, and abstained from voting on the action, then his company could bid on City work. The council member was not able to provide a copy of the referenced opinion, and research performed found no published opinion. Furthermore, Ordinance 94-005 and KRS 61.252 specify other actions that must be taken to avoid a conflict of interest, such as disclosing the specific nature of the council member's interest in the contract at a City Council meeting, a finding by the council that the contract is in the best interests of the public and the reasons why, and documenting that disclosure as part of the official record before the contract is executed. While meeting minutes document that the council member abstained from the vote, a disclosure was not made part of the official record as required. These circumstances are even more concerning because the City did not procure the medic unit through a sealed bid process. Including this example, the City procured over \$140,000 in repairs and services from this council member's business during the period examined.

Air Conditioning Unit

The City again did not advertise they were accepting bids for an air conditioning service and did not perform a public bid opening as required. On July 13, 2016, the City paid another council member's business \$23,900 for an air conditioning unit and installation costs associated with work performed for a new building at the City Sewer Plant. City records show the City received three separate

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vendor quotes related to this project in the fall of 2015, none of which were sealed bids. The first vendor quote was received on September 28, 2015 for \$26,070; the second vendor quote was received on October 30, 2015 for \$28,200; and the final quote, from the council member's business, was submitted on November 6, 2015 for \$23,900. The council member stated he was not aware of the other quotes given to the City for this work and he has done work for the City for many years, predating his term in office. Including this unit, the City procured over \$46,000 of parts and services from this council member's business during the period examined.

Flowers

The City procured flowers and embroidery services valued at approximately \$1,133 from a business owned by the Mayor's son and daughter-in-law. According to City personnel, the flower shop had been doing business with the City for several years, but had only been owned by the Mayor's son and daughter-in-law more recently. The Mayor confirmed this statement and was advised by his daughter-in-law that they had purchased the flower shop on November 10, 2015 and then later purchased the embroidery business to function as part of the flower shop on May 17, 2016. The Mayor advised City staff of this ownership and discouraged the use of this business, but it is unclear when the Mayor addressed the issue with staff and no further action was taken to halt purchases from this business. See Finding 4 regarding the City's procurement of flowers, gifts, and gift cards.

Vehicle Repairs

According to a review of City expenditures, the City engaged a council member's business to perform vehicle air conditioning repair work and paid his business \$1,056.91 between July 1, 2015 and January 31, 2017. While discussing this matter with the council member, he noted that he had owned the business for about 37 years and had been doing work for the City on and off over those years, prior to becoming a City council member in January 2015. The council member indicated that he had not thought of these transactions as creating a conflict of interest for himself. Though a conflict may not have existed previously, the relationship between the vendor and City changed after the councilmember took office and should have been reevaluated at that time.

Failure to follow procurement laws and policies is especially troubling in these instances where policies designed to address conflicts of interest were also not followed. The City did not take the necessary steps to ensure compliance with conflict of interest policies. By procuring goods and services from businesses owned by three council members, and from the Mayor's son, the City did not appear to comply with its Code of Ethics.

Findings and Recommendations

These concerns expose the City's procurement process to weaknesses that could result in waste, fraud, or abuse, especially when combined with weaknesses reported in Finding 1.

Violation of KRS 61.252 is a Class A misdemeanor. Upon conviction, penalties can include removal from office and voiding of the contracts at issue. Additionally, Section V of the city's procurement standards indicates any intentional violations of City procurement standards will open the official or employee to civil suit without legal representation by the city and contractors will be barred from doing future business with the City.

While City personnel indicated feeling no pressure to use any particular business, including businesses affiliated with City officials, each City official must remain cognizant of the City's procurement standards and Code of Ethics requirements to ensure no conflicts exist. The City is responsible for ensuring all employees and officials are adequately informed of all policies and ethics requirements applicable to them.

Recommendations

We recommend:

- The City comply with KRS 61.252, the City's procurement standards, and the City's Code of Ethics by evaluating its existing contracts and purchasing practices, and implementing procedures to eliminate potential conflicts of interest. The City should also ensure all officials and employees are informed of the conflict of interest policies in place. All newly elected or appointed officials and employees should receive these policies soon after starting their new roles.
- The City refrain from conducting business with businesses owned or operated by City officials when this violates KRS 61.252, the City's procurement standards, or its Code of Ethics.
- Finally, due to the nature of these findings, we will refer this finding to the City Ethics Board for further consideration of the potential conflicts that may exist with City officials.

Finding 3: City Officials Did Not Complete Statements Of Financial Interest Required By The City's Local Ethics Code And KRS 65.003(3)(b)

Auditors requested completed Statements of Financial Interest (statement) on file with the City from July 2014 through January 2017. The only statements provided prior to 2017 were eight statements from 2011. Initially, the City Clerk provided auditors with only four statements, including one for each of the three City Council members elected to office in the fall of 2016. After making additional requests for any remaining statements, the City Clerk provided two additional statements, one for the Mayor and one for

Findings and Recommendations

the City Clerk. Several weeks later, the City Clerk provided statements for the remaining eight council members. All of the 14 statements provided were completed during calendar year 2017.

According to Ordinance 94-005, also known as the City's Code of Ethics, section 13, "[t]he following classes of officer and employees of the city and city agencies shall file an annual statement of financial interests with the Board of Ethics:

- (a) Elected city officials.
- (b) Candidates for elected city office.
- (c) Non-elected officers and employees of the city or any city agency who are authorized to make purchases of materials or services, or award contracts, leases or agreements involving the expenditure of more than \$1,000."

The ordinance sets forth basic filing requirements that each city must include in a local ethics code under KRS 65.003(3)(b). The statute requires annual financial disclosure statements to be filed, at a minimum, by elected officers and candidates for elected city office.

The statements are maintained by the City Clerk. Although the Clerk states she was not officially appointed as the custodian of these records, she has assumed the role of custodian for all City business and she is not aware of anyone, other than herself, ever collecting and retaining this information since she became City Clerk in 2003. The City Code of Ethics requires the statements to be filed no later than 5:00 p.m. on April 15 of each year. Additionally, the ordinance requires new officers or employees to file their initial statements no later than 30 days after the date of their appointment. While most 2017 statements were submitted by the required deadlines established by Ordinance 94-005, the City Clerk confirmed that other than those provided, there were no disclosure statements on file since 2011.

Many current City officials have served in their current capacity for 10 years or longer, but have not filed financial statements since 2011. Prior to 2017, the City had no disclosure statements on file for most council members, the Mayor, and the City Clerk, though many had served in their current capacity for 10 years or longer. Furthermore, while the City Water and Sewer Department COO handles the finances of the Water and Sewer Department, the COO has not completed a disclosure statement. The City Clerk indicated she was not aware that she and the Mayor should complete a disclosure statement, and she had not previously considered asking the Water and Sewer Department COO to complete a disclosure

Findings and Recommendations

statement. The Mayor indicated that he was not aware of the annual reporting requirement and did not know why the City had not ensured the disclosures were done each year. The Mayor believed he had completed a statement when he first came into office but acknowledged that he had not completed any other statements.

Also, the 2017 Statement of Financial Interest forms completed by City officials and personnel omitted a question required by the City's Code of Ethics. Ordinance 94-005, section 17 requires the statement to include among other things, "each source by name and address of gifts or honoraria having an aggregate fair market value of \$100 or more from any single source, excluding gifts received from family members, received by the filer or any member of the filer's immediate family during the preceding calendar year." Questions posed in the 2011 statement forms also did not agree with questions required to be addressed by the City's Code of Ethics. As such, it does not appear that the City has taken sufficient action to ensure that disclosures are completed annually or that disclosure statements require the correct information.

Recommendations

We recommend:

- The City ensure compliance with Ordinance 94-005 (City Code of Ethics) by requiring all City officials and employees with purchasing authority over \$1,000 to complete a Statement of Financial Interest. The City should implement procedures to ensure these annual statements requesting all required information have been filed in accordance with its Ethics Ordinance. The City should officially clarify or establish the records custodian for the City Ethics Commission, including the person designated to receive these financial disclosure statements.
- The City Clerk review all statements submitted to ensure each required statement is complete and retain the statements as prescribed by the Ordinance. Additionally, procedures should be established to ensure that potential conflicts of interest identified through these disclosures are avoided in the procurement process. Due to the nature of these findings, this finding will be referred to the City's Board of Ethics to monitor compliance and determine any appropriate action.

Finding 4: The City Did Not Properly Safeguard Public Assets And Spent Public Funds Without Appropriate Documentation Or Policies

Between July 1, 2014 and March 22, 2017, the City spent \$15,695.36 in City funds on flowers, gifts, and meals, with a debit card used to incur \$2,256 of this total. The documentation for the majority of these purchases did not have sufficient detail to justify the use of public funds, such as names of individual attendees at meals, gift recipients, or details of the items purchased. While some

Findings and Recommendations

of these expenditures may be reasonable, the City does not have a written policy establishing guidelines for such spending. Without establishing guidance to control such expenditures, the City cannot ensure public funds are used for legitimate operational purposes. Additionally, the use of debit cards increases the risk of loss to City assets because the debit cards were tied directly to City bank accounts.

Use of Debit Cards

During the examination period, the City utilized the debit cards for approximately \$229,080 in purchases. These debit cards are linked directly to public bank accounts, which creates a security risk if the cards are compromised. The use of debit cards, especially those that are tied directly to public bank accounts, exposes the City to a significant risk of loss through theft or misappropriation.

Of the total debit card expenditures, approximately \$23,788 was in purchases that were linked directly to the City's general fund bank account, and \$228,178 were linked to other City accounts. Also, the City does not have adequate policies in place over the use of debit or credit cards. The debit card linked to the City's general fund bank account was compromised in November 2016. The City canceled the card and opened a credit card account instead, which the Mayor indicated was a better option because it is not tied directly to any City bank accounts. The credit card account has two cards associated with it, one held by the Mayor and the other retained by the City Clerk. Although the City canceled the debit card associated with the City's general fund, the City Water and Sewer Department and the City Police Department each have debit cards that are tied to department bank accounts.

Adding to the inherent risks of debit cards, the City did not have a policy establishing restrictions on the use of City debit or credit cards during the examination period. The City did not take action to address the risk that could occur with the use of debit or credit cards until auditors questioned the City's lack of a policy. On April 6, 2017, the City established a policy regarding the use of City credit cards. While the new policy restricts the use of the credit card to City purchases and prohibits the use of cards for certain transactions such as cash advances and personal purchases, it does not contain any detailed prohibitions or specific guidance that would improve the City's ability to monitor the use. For example, guidance requiring that credit cards only be used for expenditures that are (i) below an established amount, (ii) preapproved, or (iii) emergency purchases that could not be processed through the standard accounts payable or reimbursement process, would improve the City's ability to properly safeguard its assets. Also, the new policy does not apply to debit cards, and does not address penalties or actions applied if

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abuse of the card occurs. The City Clerk stated she had developed the credit card policy with “only City departments in mind,” indicating the policy only applies to the particular City departments whose accounts she manages, which does not include the Police Department or the Water and Sewer Department. Although the Clerk may not oversee the administration of those accounts, the City Water and Sewer Department and Police Department are departments of the City, and as such the City is also responsible for safeguarding the assets in those departments. Furthermore, while the policy does require receipts be detailed to show what was purchased and the price for each item purchased, the policy does not require the purchaser to clearly identify the business purpose of the expense or specifically identify individuals associated with the expense.

Meals

Between July 1, 2014 and March 22, 2017, a sample of expenditures identified meal purchases totaling approximately \$9,900, and included nearly \$1,400 spent for meals at local restaurants, over \$500 for meeting meals catered from local restaurants, and \$5,910 spent for catered holiday meals for employees. Of the 37 meal purchases examined, 76 percent were purchased using a City debit card, the majority of which were local meals. Although City personnel state local meals purchased with a City debit card are for official City business, not all documentation reviewed was adequate to make that determination, as noted in the following:

- In 14 instances, the attendees of a meal were identified by name, but the detail of what was included in the meal purchase was not identified.
- In four instances, a receipt supporting the expenditure identified what was purchased but did not specifically identify who attended the meal.
- In three instances, the supporting documentation provided no detail of what was purchased nor who attended the meal, and one meal totaling \$22.37 was found to have no supporting documentation.

Included in the local meals examined were nine meals, totaling \$874.33, described in supporting documentation as a luncheon with the Mayor or simply stated as “Mayor’s Luncheon.” While discussing these purchases with the Mayor, he acknowledged use of the City debit card for business lunches with City council members. The Mayor noted these lunches were held to allow time to meet with Council members periodically to keep them informed and answer questions they may have. These meetings also include various City personnel. Eight of the nine Mayor luncheon meals reviewed identified specific attendees by name and did not indicate a quorum of City council members were present at these meals. The only

Findings and Recommendations

Mayor luncheon meal reviewed which did not identify attendees by name was on March 24, 2016, totaling \$186.67, and identified the luncheon as being with local school officials. The City did not have a documented list of attendees, but the City Clerk stated the purpose of the meeting was to discuss a program partnership between the City and the local school system and offered a list of individuals the Mayor recalled being present.

In the sample reviewed, the City spent approximately \$5,900 for City official and employee holiday meals, and \$600 for a police department appreciation celebration. Approximately half of the holiday meal expense was the result of the City's annual employee Christmas breakfast, for which the City expended \$1,200 each year in December 2014 and December 2015, and \$1,000 in December 2016. An additional \$2,410 of the \$5,900 was expended in December 2014 for other holiday celebrations, including \$255 for a City Council catered meal and \$2,155 associated with a banquet for City and county emergency service personnel. An employee count was not available for the \$600 police department appreciation dinner, but the per-person averages for the other meals ranged from \$8 to \$13. In addition to these larger celebrations, other miscellaneous food-related purchases did not appear to be for legitimate operational needs, such as \$125 for pies purchased to celebrate a swearing-in ceremony in April 2015, and \$22 for a birthday cake and ice cream to celebrate the Mayor's birthday in July 2016.

Gifts

City records identified the City expended over \$4,080 between July 1, 2014 and March 22, 2017 for gift cards or gift certificates for City employees. The largest expense was incurred in December 2014 when the City purchased 154 gift cards valued at \$25 each as holiday gifts for City personnel. This expense was incurred through four checks totaling \$3,850 made payable to a local civic organization. Supporting documentation for this expense only states the number of employees receiving gift cards, identified as part-time and full-time employees. The City Clerk indicated that documentation of the specific individuals receiving this gift was not retained. The Mayor reported Christmas gifts were given every year prior to his term in office, but he had ended this after he was advised at a local government seminar to discontinue this practice. While no additional Christmas gifts were identified in this review after December 2014, the City expended an additional \$230 to procure \$10 restaurant gift cards for staff on Administrative Professionals' Day in 2015 and 2016. Again, no documentation was maintained by the City to clearly identify gift card recipients.

Findings and Recommendations

In addition to gift card purchases, documentation reflected that the Mayor was reimbursed \$50 in December 2014 for a gift card he purchased at a local restaurant. Supporting documentation for this reimbursement included a sticky note stating, in part, “swearing in gift reimbursement.” The Mayor noted the judge had performed the swearing in ceremony for new council members on his own time and he wanted to give the judge a gift as a thank you. While this may be a kind personal gesture, expending public funds for gifts to officials is a questionable practice.

Expenditures reviewed also revealed that the City purchased retirement gifts during the time period examined, including two watches, a necklace, and a gift card to a sporting goods retail store. While the City expended on average \$100 toward each retiree gift identified, the City expended \$250 on a diamond pendant necklace given to one employee in September 2014. According to the City Clerk, the necklace was given to the former assistant clerk as a retirement gift after 30 years of service to the City. Additional compensation for public services rendered is prohibited by Section 3 of the Kentucky Constitution. Compensation for city employees is to be set by ordinance per KRS 83A.070. According to Attorney General Opinion 62-1, KRS 64.410(2)(c) also applies to prohibit bonuses to city employees.

According to City records, the City expended approximately \$4,000 during the examination period for purchases from six floral shops. Examining a sample of these purchases found flowers and gifts were purchased for various occasions, including a banquet, a birth, and funerals. The City does not have a policy regarding the allowability or spending limitations for such purchases. Also, the amount expended on individual floral orders varied. The Water and Sewer Department COO indicated no more than \$30 to \$35 is usually spent on flowers for individuals, and the City Clerk noted that \$45 to \$60 is paid per floral order. Of the amount spent at floral shops, the City procured flowers and embroidery services valued at approximately \$1,133 from a business owned by the Mayor’s son and daughter-in-law during the examination period, as reported in Finding 2.

Recommendations

We recommend:

- The City eliminate the use of debit cards at all departments. However, if the City chooses not to follow this recommendation, the City should adopt a policy applicable to debit cards and credit cards due to the increased risk of loss through theft or misappropriation. The policy should address purchase limit restrictions and preapproval

Findings and Recommendations

processes. The City should also establish and include in the policy a process to disallow expenditures charged to a City credit card for purchases beyond those specifically permitted, and penalties that will be applied for not reimbursing the City within an established period.

- The City develop and implement a user agreement for individuals assigned a City credit card or debit card to sign, acknowledging their understanding of the City's expectations and that they have received, read, and understand the City's credit card and debit card usage policy. These forms, once completed and signed by individual card holders, should be maintained in the City's records or other central secure location.
- The City should only spend public funds on necessary public expenses, which in the absence of travel or extraordinary circumstances does not include meals. To avoid violation of Section 3 of the Kentucky Constitution, the City should reevaluate its practice of using public funds for holiday celebrations and employee gifts, including retirement gifts. If individuals wish to have a party or provide a retiree with a gift, we recommend that, rather than using public funds, the City consider having individuals voluntarily contribute personal funds for the party or gift. The City may consult the City Officials Legal Handbook published by the Kentucky League of Cities (2017 edition), Chapter 9, Section IV. (page 166), for additional guidance.

Finding 5: The City Did Not Properly Account For Regulatory License Fees Collected From The Sale Of Alcohol As Required By KRS 243.075

The City began allowing for the sale of alcohol under limited conditions within City limits in July 2008 and later expanded sales in November 2016. In addition to authorizing the sale of alcohol in the City, the City Council also established alcohol licensing and regulatory fees as permitted by KRS 243.070 and KRS 243.075. While the use of license fees established under KRS 243.070 are not restricted, regulatory license fees established under KRS 243.075 must be deposited into a segregated fund and may only be used for additional policing, administration, and regulation expenses due to the repeal of prohibition. The City did not segregate the accounting of these funds as required by KRS 243.075 until March 2017, when a separate bank account was established to maintain these funds.

The City's Regulatory License Fee was first established by City ordinance 08-06 as eight percent of gross receipts from the sale of alcohol. At that time, sales of alcohol in the City were restricted to the purchase of alcoholic beverages in conjunction with a meal. Between July 1, 2014 and June 30, 2016, the City collected and deposited into its general fund \$46,086 in Regulatory License fees from limited alcohol sales. The City Clerk acknowledged that funds

Findings and Recommendations

were not coded in any specific way when expended to delineate the use of the Regulatory License fees from other general fund revenues. Without a mechanism to segregate the accounting of these funds, the City could not specifically identify how the Regulatory License fees were used. Review of City budget to actual reports for FY 2015 and FY 2016 found the City expended more than \$2.5 million on police department expenses in each of those years.

According to the City Clerk, the City first became aware of the statutory requirement for the Regulatory License fees to be segregated when the City was conducting research in preparation for expanding alcohol sales in the fall of 2016. The City expanded alcohol sales effective November 21, 2016. In an attempt to properly segregate the Regulatory License fees, the City established a separate bank account for the deposit of the fees in March 2017 and transferred into this account \$13,454.36 from the general fund. This total represented the amount of Regulatory License fees collected by the City between July 1, 2016 and February 21, 2017.

Recommendations

We recommend:

- The City continue to maintain segregated accounts for these funds to ensure compliance with KRS 243.075 and track the use of these funds to ensure funds generated by the sale of alcohol are properly used as intended by law.
- The City implement procedures to ensure that all restrictions associated with the collection and use of funds are identified to reduce the risk of future non-compliance.

**CITY OF CAMPBELLSVILLE'S
MANAGEMENT RESPONSE**

City of Campbellsville, Kentucky Management Response



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December 19, 2017

Hon. Mike Harmon
Auditor of Public Accounts
209 St. Clair Street
Frankfort, Kentucky 40601-1817

Re: Special Examination of certain policies, procedures and
financial activity of the City of Campbellsville

Dear Mr. Harmon,

This correspondence is in response to the report of your office in connection with the above referenced examination and the response is consistent with the email correspondence of Name redacted [redacted] dated Friday, December 15, 2017 which provided until December 19, 2017 in which to respond.

Let me first say that I appreciate the diligent efforts of your office in conducting an extremely thorough examination and in reviewing transactions between July 1, 2014 to January 1, 2017 ("Applicable Period"). Members of your staff were present at the offices of the City of Campbellsville ("City") on numerous occasions over a lengthy period of time approaching one year. Your staff was always professional and courteous.

As your report indicates, this was a special examination which was conducted "in response to concerns received." It is always helpful to have members of the community questioning the manner in which business is being conducted. We are dealing with taxpayer dollars and as custodians of public funds, there should be scrutiny as it causes everyone in City government to always use their best efforts to safeguard those funds and make the very best decisions possible.



City of Campbellsville, Kentucky Management Response (Continued)

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As I am sure you were pleased to learn from your extensive examination, the City has been excellent stewards of the public funds entrusted to it during the Applicable Period. Your report does not suggest that even one dollar was wasted, misspent or otherwise the subject of an improper or inappropriate expenditure. The City's accounting functions are segregated thereby limiting opportunities for waste, fraud and abuse. The City's internal controls are strong and regular audits are performed by the City's certified public accountants.

Your report contained five findings which will be addressed specifically in the attachment to this letter, but those generally fall into two primary categories – violations of the City's procurement requirements and violation of the City's ethics requirements. Although there may have been some failures to comply with the letter of these rules, without question, the City was in full compliance with the spirit of these rules. Every purchase which required competitive bids were competitively bid. In addition, the City has received appropriate value for each and every dollar spent. We agree with some of your findings and respectfully disagree with others as indicated on the attachment. Despite any disagreement about the specifics of the report and the City's response, we certainly understand that we can improve in the areas which you have identified and we intend to do so.

Please understand that the City's practices with respect to procurement and other issues addressed in your report have been in place for many years. After I was elected, I maintained much of the same staff from the prior administration and many of the same practices have continued. No one involved in making purchases on behalf of the City during the Applicable Period ever intentionally or deliberately violated the procurement policy or the Ethics Ordinance. All decisions were made in good faith with the best interests of the City in mind.

I have attempted to improve many City practices and this examination provides us with great assistance in making these improvements. The City does intend to implement your recommendations. Specifically, the City will take the following actions:

1. Assign a specific person in our City to be responsible for insuring compliance with procurement and ethics requirements by all City employees.



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The City of Campbellsville is an equal opportunity provider and employer.

City of Campbellsville, Kentucky Management Response (Continued)



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2. Require that appropriate training be provided to those City employees making procurement decisions.
3. Enter into written contracts for any professional services or any significant agreement.
4. Collect Statement of Financial Interest from all required parties on an annual basis.
5. Cease using a debit card for any purpose.
6. Develop and implement a user agreement for individuals assigned a City credit card acknowledging their understanding the City's expectations.
7. Cease spending even nominal City funds for holiday celebrations and employee gifts.
8. Continue to maintain segregated accounts for regulatory fees from alcohol sales.
9. Implement procedures to ensure that all restrictions associated with the collection and use of funds are identified to reduce the risk of non-compliance.
10. Develop a written policy relating to spending funds for lunches and other miscellaneous expenses.

Again, many of the practices which you identified in your report were practices which were carried forward from prior administrations and all City employees were operating in good faith with the understanding that the City was in full compliance with all laws, rules and regulations. We always appreciate the opportunity to improve the practices of the City. Thank you for your time and attention in conducting your examination and thank you for the opportunity to respond.

Very truly yours,
City of Campbellsville

A handwritten signature in blue ink, appearing to read "Tony W. Young", is written over the printed name.

Tony W. Young, Mayor



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City of Campbellsville, Kentucky Management Response (Continued)



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Finding 1: City Procurement Practices Did Not Comply with State Law and City Policy

As indicated on page 3 of your report, the applicable procurement requirements are designed to provide an opportunity for competition and create the opportunity to receive and compare multiple bids. The City is required to receive competitive bids for most expenditures exceeding \$20,000.00. This was done on each occasion the City intended to spend in excess of \$20,000.00. Your report also points out that the City was required to advertise for the solicitation of bids exceeding \$20,000.00 in the local newspaper. This does not appear to have been done in every situation and should have been done in some situations. Going forward, the City will strictly comply with all applicable procurement requirements.

Civic Center Renovations

Your report is critical of two aspects of the renovations of the Civic Center which occurred over a period of just under three years and which spanned over four fiscal years. The City utilized many of its employees to participate in the renovation process in an effort to conserve costs. In order to correct a problem which persisted in the previous council chambers, the City purchased an audio visual system to have installed in the Civic Center to insure that the Council and the public could hear each other while the City's business was being conducted. The cost of the system, as originally priced, was less than \$20,000.00 so no competitive bid was required. After having the system installed, the City later determined that it would be beneficial to install audio visual equipment in the basement of the Civic Center for use with executive sessions of the City Council and other meetings. A price for this equipment was obtained and it, too, was less than the \$20,000.00 threshold for requiring competitive bids. This equipment was purchased and installed. Sometime later, after most of the renovations were complete and the audio visual equipment was being utilized in the Civic Center, it was apparent that the sound quality was suffering by virtue of the acoustics in the room. The company which had sold the equipment to the City was consulted and it recommended that the City purchase and install baffles on the walls of the Civic Center. This purchase was also less than the \$20,000.00 threshold and competitive bids were not required. All three of these purchases were independent of one another and none



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City of Campbellsville, Kentucky Management Response (Continued)



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of them required competitive bids. Had the City intended from the beginning to install all of the equipment it ultimately installed, we agree that it would have been required to have solicited bids. However, contrary to the implications in your report, these were three separate purchases at three different times and all were made consistent with applicable procurement standards. This is true despite the manner in which payment was made which might have led you to believe that some or all of the purchases were made simultaneously.

The second criticism is payment of sums to a contractor which exceeded the \$20,000.00 threshold. This contractor was initially hired to assist with very specific and limited duties. The scope of those duties changed as the job progressed. For example, as the contractor uncovered a stained-glass window by removing a wall, it led to the need for additional work. As the need for additional work became apparent, this particular contractor was willing to provide pricing for the additional work. The construction process was longer than anticipated. The City was attempting to expedite the construction and as a result relied upon this contractor for matters beyond the initial scope of work. Again, this was a series of separate contracts with the contractor. Each time, the quotes were less than the \$20,000.00 and were reasonable. I have every confidence that we would not have received a better rate or better work as this contractor is a person of high character and is very community minded. We are satisfied that the procurement requirements were complied with on this project.

As is indicated in Opinion of Attorney General 69-515, purchases that are actually severable on a bona fide basis, the statute would not be offended. These were all separate bona fide agreements and it is our belief that we were in strict compliance with all procurement standards as it relates to the Civic Center.

Paving Services

The City relied exclusively on [Redacted] for its paving needs between July 1, 2015 and March 31, 2017. This was done for one simple reason – no other provider would even be willing to meet with the City’s Street Department Supervisor, [Name] [Redacted], to discuss what the City needed. The other paving companies explained to [Redacted] that the small scope of work was not such that they would be interested in meeting with City officials, much less in submitting a bid. Accordingly, the paving



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City of Campbellsville, Kentucky Management Response (Continued)



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company selected was a sole source provider as contemplated in Section I.D.2. of the City's procurement policy and KRS 45A.380. Accordingly, it was permissible to engage in non-competitive negotiations with this company. The City failed to document this in writing as required by these authorities and in the future, the City will make such a written determination.

Vehicles

The City's practice in purchasing vehicles was competitive and the City believed it was acting in compliance with applicable procurement requirements. When a vehicle was needed, a City representative would seek and obtain "state contract pricing" and would then go to several different local dealerships. In communicating its need, the City would communicate that the City was eligible for and wanted the local dealership to match or be lower than state contract pricing. Each dealer from whom a bid was sought provided what the City understood to be a price equal to or less than state contract pricing. The City made an effort to trade locally and the purchases were spread across multiple dealerships. Each and every vehicle purchased was after this competitive pricing process occurred.

Other Instances

The other instances of expenditures by the City include the City's waste disposal services. There was only one such provider in the City of Campbellsville. The Campbellsville Water Company purchased certain coagulant from a company which had a proprietary chemical which works particularly well with our system. The City's Procurement Policy specifically permits non-competitive negotiations for purchases over \$10,000.00 "when bidding or competitive negotiations are not feasible." In addition, the City's Procurement Policy and KRS 45A.380 permit non-competitive negotiations when "the product or service can be obtained only from one source." Both of these vendors are sole source providers and in both cases, competitive negotiations are not feasible. The only shortfall in the City's practices relating to these purchases may have been the City's failure to make a written determination of the fact that competitive negotiation or bidding is not feasible. The City will diligently document this determination in the future in order to insure compliance with procurement standards.



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City of Campbellsville, Kentucky Management Response (Continued)



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The City accepts the recommendation of your office with respect to training on procurement practices. The City intends to designate a person to be responsible for insuring compliance with all applicable procurement standards going forward. The City's procurement methods have been in place for many years spanning several administrations. This administration's primary error was not questioning whether past practices were in strict compliance with all requirements. However, as stated previously and most importantly in this discussion, all City procurement practices during the Applicable Period complied with the spirit of the procurement requirements and all taxpayer dollars were spent prudently.

Written Contracts

The City does not have written contracts with a variety of vendors with whom it purchases goods or services, including the vendors identified. The rates for goods and services are negotiated at arms-length and the City is unaware of any procurement or other requirement relating to written agreements in these situations. To a certain extent, the lack of a written agreement may be beneficial to the City in that the City has more freedom to terminate a contractual relationship if not in writing. However, in an effort to promote transparency, the City will undertake to insure that all significant contractual relationships are memorialized in writing.

Finding 2: The City Entered into No-Bid Contracts with City Officials, Creating Potential Conflicts of Interest

The purchase of the medic units and the air conditioning units were competitively bid. They may not have been advertised in the local newspaper, but the contracts were procured through a competitive bidding process. Each is addressed below.

Medic Unit

The purchase of the Medic Unit was approved by the City Council after competitive bids were made public and solicited. The City's Ethics Ordinance (94-005)



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City of Campbellsville, Kentucky Management Response (Continued)



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prohibits agreements with certain city officials, including Council Members. However, Section 6(A)(2) specifically provides that that the prohibition does not apply "if the contract is awarded after public notice and competitive bidding. . . ." In this situation, the matter was addressed before the City Council. The entire City Council, the media present and the viewing public were all made aware that the medic unit was being purchased from a City Council Member's company which happened to be the lowest bidder. There is no reference in the Ethics Ordinance or KRS 61.252 to any publication requirement consistent with KRS Chapter 424. Because the competitive process was used and there was public notice to the public and prospective bidders, this exception is met and we disagree that there was a violation of the Ethics requirement.

Additionally, the exception in Section 6(A)(3) applies. This exception applies if the transaction is disclosed to the City Council and a finding is made by the City Council that it is in the best interest of the City and the finding is made a part of the record. The purchase of the medic unit was fully discussed at the City Council meeting. All members knew of the relationship between the City Council Member and the bidding entity. By voting in favor of the bid, which was documented in the meeting minutes, the exception is satisfied and there is no violation of the Ethics Ordinance or KRS 61.252.

Air Conditioning Unit

The purchase of the air conditioning unit from the business of a City Council Member was also accomplished in a competitive bid process. The exception in Section 6(A)(2) of the Ethics Ordinance requires public notice and competitive bidding. It does not specifically require advertising in the newspaper consistent with KRS Chapter 424. Public notice was provided to all those which would have been concerned with the need for an air conditioning unit in that competitive bids were solicited from three separate HVAC contractors. The contract was awarded to the lowest bid which happened to be owned by a City Council Member. Your conclusion assumes that "public notice" means advertising in the newspaper. We respectfully disagree and we think that the Ethics Ordinance has been complied with in this situation. However, in an effort to be transparent and err on the side of caution, in the future, all solicitation for bids will be published in the newspaper.

Flowers



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The City of Campbellsville is an equal opportunity provider and employer.

City of Campbellsville, Kentucky Management Response (Continued)



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In the past, the City's practice was to alternate purchasing flowers and gifts from different providers in our community on a rotating basis. I was not involved in any of these purchases but I permitted the rotation to continue. The purchases totaled \$1,133.00 and value was received by the City. No further purchases will be made from his business. In addition, no further purchases of flowers or gifts will be made by the City. This was a violation of the procurement policy, but not of any ethics statute or ordinance.

Vehicle Repairs

As indicated in your report, the City has been utilizing the services of one Council Member in making repairs to vehicles for years. When this person became a Council Member, the City should have taken steps to insure vehicles were taken to other providers and this will occur in the future. This Council Member had the City's best interests at heart and the price for the services rendered were fair and reasonable. The total expenditures were \$1,056.91 and value was received by the City.

Finding 3: City Officials Did Not Complete Statements of Financial Interest Required by the City's Local Ethics Code and KRS 65.003(3)(b)

Similar to the practices of prior administrations, the practice of the City during the Applicable Period had been to obtain Statements of Financial Interest from any Council Member or City Official following their election or appointment, but not on an annual basis as is required by the Ethics Ordinance. The City will begin collecting these Statements of Financial Interest on an annual basis going forward.

Finding 4: The City Did Not Properly Safeguard Public Assets And Spent Public Funds Without Appropriate Documentation or Policies.

The City spent funds on flowers, gifts and meals over a period of approximately three years and did not document the specific attendee of meals. You are also critical of the City's purchase of gifts for employees at Christmas time. Although previous administrations made such purchases, I stopped doing so once I learned it was not advisable during a seminar.



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I also asked Council Members to attend periodic lunches to advise them about City business. The attendees were not always documented. You acknowledge that these expenditures may have been reasonable and they were. However, you indicate that the City needs a written policy establishing guidelines for such spending. We intend to develop such a policy and we appreciate your recommendation in this regard.

You also frown on the City's use of a debit card. The City has ceased using a debit card and we agree with your concerns as to the risks associated with its use. Fortunately, we did not have any bad experiences with respect to the use of the City's debit card and no funds were lost, compromised or adversely affected.

Finding 5: The City Did Not Properly Account for Regulatory License Fees Collected From the Sale of Alcohol As Required by KRS 243.075.

In 2008 when the City became "moist" the City began collecting the regulatory fee and accounting for it separately. This was set up under a prior administration and I had no involvement in it and no understanding of what the applicable statutes required. When the City became "wet" in 2016 we had an occasion to view the applicable statutes and created a separate account for these regulatory fees. The issue has been corrected and the City is in full compliance.



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AUDITOR'S REPLY

Auditor's Reply

The Auditor of Public Accounts (APA) identified certain matters in the City's response that warranted a reply to clarify statements that may be misleading or inaccurate without further explanation.

Finding 1: City Procurement Practices

As pointed out in the finding, Campbellsville has not adopted the local model procurement code, and therefore KRS 45A.380 is not applicable. Instead, the City must follow the specific requirements of KRS 424.260, not just any process it deems to be "competitive."

Regarding the audio equipment purchase for the Civic Center renovations, once the City can reasonably determine that goods or services from the same vendor could exceed \$20,000 in total, the purchases became subject to bid requirements. Also, the quotes obtained from the vendor were not dated, and therefore were not sufficient in determining that timely quotes were received.

Regarding paving services, KRS 45A.380 has not been adopted by the City and is not applicable. Therefore, the City must meet the requirements of both KRS 424.260 and its own procurement code. The City failed to follow either for this contract.

Regarding vehicles, as is pointed out in the report, one of the vehicles the City purchased was not even available under a state price contract. Furthermore, the City's procedures were not the appropriate competitive bidding process required by state law.

Finding 2: No-Bid Contracts

Regarding all contracts, the City is required to follow the particular, legally prescribed, competitive bidding process. The City may not follow any process it deems to be "competitive" and comply with state law.

The City's procurement policy requires recusal of the individual who has an interest in the transaction.

KRS 61.252 requires certain disclosures and findings be "made a part of the official record of the governing body of the city or city agency before the contract is executed."

Disclosures and findings must be documented in the official record of the City, not merely discussed at the meeting. KRS 61.252 requires these disclosures and findings to include: (i) the nature of the transaction, (ii) the officer or employee's interest in the transaction, (iii) a finding that the contract is in the best interests of the public, (iv) the reason for that finding.

These disclosures and findings should be documented to demonstrate compliance with legal requirements and satisfy the statutory requirement of making them part of the official record of the City.

The City must comply with its own ethics code, the state laws regarding procurement, and the City's own procurement policy. However, the City's codes and policies do not supersede state law.