

***STATE OF LOUISIANA
LEGISLATIVE AUDITOR***

Town of Independence
Independence, Louisiana

September 13, 1998



***Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor***

LEGISLATIVE AUDIT ADVISORY COUNCIL

MEMBERS

Representative Francis G. Thompson, Chairman
Senator Ronald C. Bear, Vice Chairman

Senator Robert J. Barham
Senator William E. Fields
Senator Thomas A. Greene
Senator Craig F. Ramero

Representative F. Charles McFalls, Jr.
Representative Edwin B. Munnay
Representative Warren J. Trickett, Jr.
Representative David Viler

LEGISLATIVE AUDITOR

Daniel G. Kyle, Ph.D., CPA, CFE

DIRECTOR OF POLICY AND QUALITY ASSURANCE

Greer C. Austin, CPA

TOWN OF INDEPENDENCE
Independence, Louisiana

Under the provisions of state law, this report is a public document. A copy of this report has been submitted to the Governor, to the Attorney General, and to other public officials as required by state law. A copy of this report has been made available for public inspection at the State Postage office of the Legislative Auditor and at the office of the parish clerk of court.

September 13, 1999

TOWN OF INDEPENDENCE
Independence, Louisiana

September 13, 2006

CONTENTS

	Page
Legislative Auditor's Transmittal Letter	2
Background and Methodology	3
Conclusions	4
Findings and Recommendations	6
Management's Responses	Attachment I



OFFICE OF
LEGISLATIVE AUDITOR
STATE OF LOUISIANA
BAYOU BOULE, LOUISIANA 70804-9307

1400 NORTH THIRD STREET
FIRST FLOOR BOX 6497
TELEPHONE: (504) 384-2800
FACSIMILE: (504) 384-2230

DANIEL D. EYLE, Ph.D., CPA, CFE
LEGISLATIVE AUDITOR

August 16, 1996

**HONORABLE FRANCIS C. THOMPSON, CHAIRMAN,
AND MEMBERS OF THE LEGISLATIVE
AUDIT ADVISORY COUNCIL**

Bayou Rouge, Louisiana

Transmitted herewith is our report on the examination of the Town of Independence (town). Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine whether the town has taken appropriate action in response to audit findings cited in the audit report and management letter dated November 7, 1995, issued by Durnin & James, Certified Public Accountants.

Copies of this report have been delivered to the mayor and aldermen of the Town of Independence and other authorities as required by state law.

Respectfully submitted,

Daniel D. Eyle, CPA, CFE
Legislative Auditor

GLM:HDC:rs

ex-101000

LEGISLATIVE ASSISTANT

TOWN OF INDEPENDENCE
Independence, Louisiana

BACKGROUND AND METHODOLOGY

Durrin & James, Certified Public Accountants, issued an audit report and management letter dated November 7, 1995, on the financial statements of the Town of Independence (Town) for the year ended June 30, 1995. The report included numerous internal control deficiencies and violations of state laws and regulations. On July 22, 23, and 28, 1996, we visited the Town of Independence to determine whether the town had taken appropriate action to correct the matters included in that report.

Our procedures consisted of the following: (1) examining selected town records, (2) interviewing certain employees of the town, (3) reviewing applicable Louisiana laws and Attorney General opinions, and (4) making inquiries to the extent we considered necessary to achieve our purposes.

LEGISLATIVE AUDITOR

TOWN OF INDEPENDENCE Independence, Louisiana

CONCLUSIONS

Based on the results of the procedures performed during our visit to the town on July 22, 23, and 25, 1995, we conclude that the town has taken the following steps to resolve the findings contained in the audit report and management letter dated November 7, 1994:

1. The town now issues occupational licenses only after a properly completed application signed by the taxpayer has been provided to the town.
2. The current town clerk verifies the accuracy of each occupational license application received by tracing gross sales on the application to the sales tax report filed by the Tangipahoa Parish School Board.
3. The current town clerk traces information from the property tax records and utility billing system to the sales tax reports received from the Tangipahoa Parish School Board to make sure that all businesses located in the town are filing sales tax returns.
4. At the end of each month, the town clerk prepares a reconciliation of accounts receivable before releasing the monthly utility bills.
5. The town accounts for the sewer and water funds separately.
6. The town enforces its cutoff policy by terminating utility service to customers who are more than two months past due.
7. Currently, the town requires invoices to support all expenditures, and the mayor initials and approves all invoices before payment.
8. All interfund loans outstanding at June 30, 1995, have been repaid.
9. The town installed new computer software, and correct payroll taxes and retirement contributions are now withheld from employees' wages.
10. The current town clerk prepares a monthly schedule of the town's bank balances and securities pledged to guarantee deposits with the fiscal agent bank to ensure the deposits are adequately secured as required by state law.
11. On June 13, 1995, and June 11, 1995, the town adopted budgets for the years ended June 30, 1999 and 1997, respectively, for the General Fund and all special revenue funds and on April 9, 1995, the town amended the General Fund budget.

LEGISLATIVE AUDITOR

TOWN OF INDEPENDENCE

Independence, Louisiana
Conclusions (Continued)

12. On July 23, 1988, the General Fund refunded the \$12,828 owed to the 1982 Sales Tax Special Revenue Fund.
13. The town clerk now maintains proper bid files.
14. The town approved the \$5 increase in court costs by adopting an ordinance on January 9, 1995.

The town has not addressed the following findings included in the audit report and management letter dated November 7, 1995:

1. The town has not collected interest and penalties for those occupational license taxes received after the due date.
2. The town has not calculated a tax sale for nonpayment of property taxes.
3. The town has not reconciled the customers' meter deposit account with the listing of individual customer's meter deposits.
4. The town does not maintain adequate fixed assets records.
5. A town alderman (Mr. John Polito, Sr.) continues to serve as a full-time paid employee of the town as fee chief in violation of Louisiana law.
6. The town has not complied with the Louisiana Community Block Grant agreement.
7. Excess cash is not invested.

The Findings and Recommendations section of this report provides details for our conclusions for the findings not addressed by the town.

LEGISLATIVE AUDITOR

TOWN OF INDEPENDENCE
Independence, Louisiana

FINDINGS AND RECOMMENDATIONS

**Interest Not Collected on Delinquent
Occupational License Taxes**

Finding: The town does not collect delinquent interest and penalties for those occupational license taxes received after the due date. Louisiana Revised Statute (LSA-R.S.) 47:243 authorizes the town to collect interest and penalties on delinquent occupational license taxes and the town's occupational license fee renewal application declares that interest of 6 percent and a penalty of 25 percent per annum will be assessed on taxes paid after March 1. The current town clerk, Ms. Donna S. King, informed us that she did not collect interest and penalties on delinquent occupational license taxes because the previous town clerk had not done so. As a result, the business owners have no incentive to pay their occupational license taxes on a timely basis.

Recommendation: The town should collect interest and penalties on delinquent occupational license taxes.

**Tax Sale Not Conducted for
Unpaid Property Taxes**

Finding: The town did not conduct a tax sale for unpaid ad valorem (property) taxes. LSA-R.S. 33:461 and 47:2171-2194 require that after December 31 of the year in which taxes are assessed, the tax collector should notify each delinquent taxpayer that his property will be sold, and 25-30 days after mailing the notice and the taxes are not paid, the property should be sold. The mayor, Philip R. Domiana, informed us that the town has not conducted a tax sale for unpaid property taxes because the town has always been successful with other collection methods. On June 18, 1996, the town attorney sent letters to delinquent taxpayers which threatened legal action against those delinquent taxpayers. However, as July 25, 1996, 51 taxpayers owed ad valorem taxes of \$3,152 for the 1996 calendar year; nonetheless, the town has not conducted a tax sale. As a result, the taxpayers have no incentive to pay their taxes, and the amount of unpaid property taxes could have a negative impact on the town's cash flow and disrupt normal town operations.

Recommendation: The town should conduct tax sales for nonpayment of ad valorem (property) taxes.

TOWN OF INDEPENDENCE

Independence, Louisiana

Findings and Recommendations (Continued)

**Customers' Meter Deposit
Account Not Reconciled**

Finding: The meter deposit account has not been reconciled with the subsidiary record of customers' meter deposits. Management of the town has a fiduciary responsibility to establish and maintain an adequate internal control structure that includes reconciliation of the meter deposit bank account with the subsidiary records of customer deposits. Since the meter deposit rates have changed over the years and because the town has never reconciled the meter deposit bank account with the subsidiary records of individual customer deposits, the town is currently unable to determine the amount of the meter deposit for many of the residents of the town. At July 22, 1998, the customers' meter deposit bank account has a balance of \$16,725. However, the subsidiary record of individual customer's deposits (Deposit Report) has a balance of \$13,885. The mayor informed us that the differences may be a result of customers that have moved without collecting their deposits.

Failure to reconcile customers' meter deposits could result in errors or irregularities that would not be detected in a timely manner. Furthermore, this situation could result in an inequity in customer service.

Recommendation: We recommend the following:

1. The subsidiary records of individual customer deposits should be updated and balanced to the cash account. The difference in the subsidiary records and the cash account should be transferred to the state treasury as unclaimed property.
2. On a monthly basis, the meter deposit bank account should be reconciled with the subsidiary records of individual customer deposits.

**General Fixed Assets Records
Not Maintained**

Finding: The town has not maintained records of its general fixed assets. LSA-R.S. 24:519 requires the town to maintain records of all fixed assets and movable property to include the date of purchase, initial cost, and disposition of such property, if applicable. Furthermore, good business practices require that a proper fixed asset accounting system be developed to ensure that all assets are accounted for when received and safeguarded against loss or misuse. The town's independent certified public accountant informed us that although he maintains some records of the town's general fixed assets, due to lack of emphasis, the town has never maintained records of its general fixed assets. The mayor informed us that he was not aware that the town was not maintaining records of general fixed assets.

TOWN OF INDEPENDENCE

Independence, Louisiana

Findings and Recommendations (Continued)

Recommendation: The town should develop an accounting system for fixed assets that ensures **assets are properly accounted for and properly safeguarded against loss or misuse.** The system should include, at a minimum, the following:

1. A written policy to define assets that will be inventoried. The policy should include a minimum value for inclusion on the list of fixed assets.
2. A complete list of fixed assets that includes information as to (a) the date of purchase; (b) the cost or estimated cost; (c) the location of the item; (d) the serial number or some other identifier; and (e) the disposition of the item, if any, the purpose of the disposition, and the recipient of the item.
3. Physical inventories should be taken at least annually. Follow-up procedures should be established for items not found during the physical inventory.
4. The town should establish procedures to identify (tag) assets that belong to the town.

Failure to Comply With Law
Prohibiting Dual Office Holding

Finding: The Town of Independence did not comply with Louisiana law relating to dual office holding. LSA-R.S. 42:83(D) states that no person holding an elective office in a political subdivision of this state shall at the same time hold another elective office or full-time appointive office in the government of this state or in the government of a political subdivision of the state. Mr. John J. Polito, Sr., continues to serve as a full-time paid employee of the town as the chief while serving as a town alderman. Mr. Polito was on the town payroll as the chief for four years before his decision to run for the position of town alderman. This violates state law since the position of the chief is a full-time appointive office, and the individual filing this office is also an elected town alderman. On March 11, 1998, Duncan S. Keap, III, District Attorney of the Twenty-First Judicial District, sent Mr. Polito a letter advising Mr. Polito to voluntarily relinquish one of the two positions he holds within ten days. Mr. Polito did not relinquish either of the positions and, on May 8, 1998, Richard P. Ireyak, Attorney General for the State of Louisiana, filed with the Twenty-First Judicial District Court a Petition for Declaratory Judgment and Rule to Show Cause (docket number 9801307) against Mr. Polito. A hearing on this petition is scheduled for September 28, 1998.

TOWN OF INDEPENDENCE

Independence, Louisiana

Findings and Recommendations (Continued)

Recommendation: The town should work with the Attorney General in the prosecution of this case.

Idle Funds Not Invested

Finding: The town did not invest idle funds. LSA-R.S. 39:1271 and 39:2665 require that monies belonging to a political subdivision that are in excess of immediate cash requirements be invested in prescribed interest-bearing accounts or securities at prescribed rates of interest. The statutes also establish criteria to determine the amounts that should be considered available for investment. At June 30, 1986, the General Fund and Waterworks Fund bank balances of \$84,288 and \$41,878, respectively, are not invested in interest-bearing accounts or securities. In addition, the Economic Development Fund and Historical Sites/Exposure Fund balances of \$120,915 and \$109,923, respectively, were invested in savings accounts yielding interest of 3.50 percent which was less than 25 percent below the discount treasury bill rate. This deficiency occurred because the current town clerk was not aware that the town funds should be invested in prescribed interest-bearing accounts or securities at prescribed rates of interest. As a result, the town is not properly exercising its stewardship responsibilities over public funds and is not earning enough interest on idle funds.

Recommendation: The town should invest all idle funds in prescribed interest-bearing accounts or securities at the prescribed rates of interest.

Failure to Comply With Grant Agreement

Finding: The town has not complied with the Louisiana Community Development Block Grant (C.F.D.A. # 14-218) agreement. The town (contractor) received an economic development grant from the United States Department of Housing and Urban Development through the State of Louisiana, Division of Administration (State) to be used for industrial development. In selecting the town for the grant, the State of Louisiana considered representations made by the town that the project was expected to create a specific number of permanent new job opportunities for low or moderate income persons. On September 25, 1987, the town issued \$484,501 of the community development block grant funds to Marco Polo Imports, Inc., (developed) for 15 years at 8 percent interest for financing of a building, land, and equipment. The loan is secured by a first mortgage in favor of the town and the State of Louisiana on the equipment, land, and building bought by Marco Polo Imports with the Community Development Block Grant funds. The town is responsible for recovering the funds from Marco Polo Imports, and remitting 50 percent of each loan payment to the State of Louisiana. In addition, the town is responsible for monitoring the activities of Marco Polo Imports and ensuring that the representations made in the grant application are properly carried out. The contract between the town, State of Louisiana, and Marco Polo Imports, Inc., requires that the town shall terminate the contract if the developer fails to comply with the terms of the contract.

TOWN OF INDEPENDENCE

Independence, Louisiana

Findings and Recommendations (Concluded)

Due to the developer's inability or unwillingness to comply with the contract, the mortgage and note was amended on August 18, 1990. The developer has failed to provide the following to the town as required by the contract and the modified mortgage note:

- The developer is 14 months delinquent (\$84,800) on payments of mortgage notes to the town. One-half of this amount is due to the town and one-half is payable to the State of Louisiana, Division of Administration. At July 29, 1995, the outstanding balance of the developer's note payable is \$237,729.

The developer has not provided monthly financial statements to the town. As of July 29, 1995, the most recent financial statements provided to the town were as of August 31, 1994.

- The developer has not provided annual financial reports prepared by a certified public accountant to the town. As of July 29, 1995, the most recent annual financial reports prepared by a certified public accountant and provided to the town were for the year ended August 31, 1994.

- The developer has failed to keep the town advised of developments in the Ames Department Store bankruptcy proceedings in which the developer had a significant claim as a creditor.

In addition, the developer has not paid its delinquent ad valorem tax totaling \$6,500 for the years 1993, 1994, and 1995.

Due to the developer's inability or unwillingness to fulfill its obligations under the agreement in a timely and proper manner, the town has not ensured that the representations made in the grant application are properly carried out. As a result, the town and the State of Louisiana has not recovered funds that could be used to fund additional economic development projects.

Mr. Herman Dubon, a representative of the State of Louisiana, Division of Administration, informed us that neither the state nor the town has terminated the contract with Marco Polo Imports because Marco Polo employs approximately 20 persons who might otherwise be unemployed. The mayor, the town attorney and Mr. Herman Dubon informed us that Marco Polo Imports has located a buyer for its note payable and the town and the state will be paid within the next week.

Recommendation: The town should ensure that the representations made in the grant application are properly carried out immediately. If the developer continues to be unable or unwilling to fulfill its obligations under the agreement, the town should terminate the contract, foreclose on the mortgage, and sell the pledged assets.

Attachment I

Management's Responses

Town of Independence

DIANNA KING
Accountant-Clerk-Tax Collector

MAYOR PHILLIP F. DOMENICO

LEON FERRARI
Mayor Pro-Tem

FIRLEY ALPHEWEE
Assessor-Clerk

Post Office Box 31

Independence, Louisiana 70004

Advisors

BOBIE L. FERRARO
Chief of Police

LEON FERRARO, JR.
JOHN J. FOLLETT, JR.

JOSEPH H. GONZALES JR.
MICHAEL MICCARELLI

JOHN J. FOLLETT, JR.
Fire Chief

August 28, 1996

State of Louisiana
Legislative Auditor
Mr. Kirby D. Campbell, CPA, CFE
Post Office Box 94197
Baton Rouge, Louisiana 70804-0977

RECEIVED
 AUG 29 1996
 LEGISLATIVE AUDITOR
 STATE OF LOUISIANA

Dear Mr. Campbell:

In connection with your examination of the audit report and accompanying management letter dated November 7, 1995, on the financial statements of the Town of Independence for the year ended June 30, 1995, you cited several findings that the Town has not addressed. We have considered the recommendations you made as contained in your examination report. The following outlines the actions we will take to correct these findings.

Occupational License Taxes

- In accordance with your recommendation, interest and penalties on delinquent occupational license taxes are being collected.

Property Taxes

- The Town has not conducted a tax sale for unpaid property taxes because the Town has always been successful with other collection methods. On June 10, 1996, Reginald J. McIntyre, Town Attorney, sent 51 letters to delinquent taxpayers totaling \$4,819.64. Nineteen delinquent taxpayers have been deleted from the tax roll totaling \$280.15. This was due to businesses closing and trailers being moved out of town. The Town has collected \$2,832.70 since the letters have been mailed. As of today, the balance of unpaid property taxes is \$2,880.97 of which \$2,219.38 are taxes owed by Marco Polo reports.

Motor Deposit Account

3. In accordance with your recommendation, the Town is presently updating the subsidiary records of individual customer deposits, and will reconcile this with the balance held in the motor deposit account. Any portion that is interest earned will be appropriately segregated and any portion that is unclaimed property will be forwarded to the State of Louisiana. In addition, the Town will reconcile the Motor Deposit Bank account with the subsidiary records of individual customer deposits at the end of each month.

Fixed Asset Records

4. In accordance with your recommendation, the Town is presently developing an accounting system for fixed assets that ensures assets are properly accounted for and properly safeguarded against loss or misuse.

Dual Office Building

5. In accordance with your recommendation, the Town is working with the Attorney General in the prosecution of this case. A hearing on this position is scheduled for August 28, 1988.

Louisiana Community Block Grant Agreement

6. The Town is presently trying to collect the note payable from Marco Polo Imports. Marco Polo Imports has located a buyer for their note payable and the Town and the State will be paid within the next week. If this is successful, the Town and the State will be paid shortly thereafter.

Idle Funds Not Invested

7. In accordance with your recommendation, the Town has invested all idle funds in prescribed interest bearing accounts or securities at the prescribed rates of interest.

We trust these actions satisfactorily resolve the findings contained in your examination report.

Sincerely,

Town of Independence


Phillip P. Dondato
Mayor