

LEGISLATIVE AUDITOR

STATE OF LOUISIANA



CITY OF KENNER

AUDIT REPORT
ISSUED APRIL 7, 2004

**LEGISLATIVE AUDITOR
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April 7, 2004


**HONORABLE PHILIP L. CAPITANO, MAYOR,
AND MEMBERS OF THE CITY COUNCIL
CITY OF KENNER**
Kenner, Louisiana

We have performed a limited examination of the City of Kenner (city). Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine the propriety of certain allegations received by this office.

A limited examination is substantially less in scope than an audit conducted in accordance with generally accepted auditing standards, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

The accompanying report presents the background and methodology and our findings and recommendations, as well as responses from management of the city and the former mayor. We will continue to monitor the findings until you resolve them. Copies of this report have been delivered to the city, the Louisiana Board of Ethics, and other authorities as required by state law.

Respectfully submitted,


Grover C. Austin, CPA
First Assistant Legislative Auditor

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[KENNER04]

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The following summarizes the findings that resulted from this limited examination of the City of Kenner. The Findings and Recommendations section of this report provides details for these findings. Management's response is included in Attachment I and the former mayor's response is included in Attachment II.

1. The city does not have a formal strategic plan for both short-term and long-range goals of the city. (See page 5.)
2. The city needs to improve controls over contracts. (See page 5.)
3. We compared the costs of legal and accounting services, audit fees, and benefits for council members with a similar sized city in Louisiana. Our comparisons revealed, without an apparent explanation, that the city pays more for those services and benefits. (See page 9.)
4. The city council authorized the expenditure of city funds to renovate a subdivision entrance structure that was elaborate and costly and for which there was no documentation that the cost was commensurate to the public benefit. (See page 12.)
5. The city needs to improve controls over purchasing and disbursements. (See page 13.)
6. Payments were made for Christmas turkeys for city employees, a Christmas luncheon for police department employees, and a monthly retainer for the police department's legal counsel, all of which payments are generally prohibited by Louisiana's constitution. (See page 15.)
7. The city needs to improve controls over payroll. (See page 16.)
8. The council awarded contracts to a company whose owner is an immediate family member of a city employee. Also, the city employee received income from the company during her employment with the city. (See page 16.)
9. An internal audit function is needed to assess and evaluate the city's operations for risks, compliance, controls, ethics, economies, efficiencies, and safeguarding of assets. (See page 18.)
10. City computer hard drives were destroyed by an employee without consideration of the Louisiana Public Records law. In addition, the city does not have a formal record retention policy for preserving public records. (See page 19.)
11. The council is not reviewing the financial operations of the city on a monthly basis. (See page 20.)
12. The city's listing of fixed assets is not complete because it does not include the assets for the police department. In addition, the police department's furniture and equipment are not tagged. (See page 20.)
13. The city does not have a fleet management policy and certain city vehicles are not properly marked in accordance with state law. In addition, the city does not report certain employees personal use of vehicles as taxable income as required by federal tax laws. (See page 20.)
14. The city needs controls over cellular phones. (See page 21.)
15. The city is providing property owners a homestead exemption in calculating their municipal property tax in violation of Louisiana's constitution. (See page 22.)
16. The city's policy and procedure manuals are not complete. (See page 23.)





Strategic Plan

The city does not have a formal strategic plan for both short-term and long-range goals of the city. A strategic plan provides a vision to determine current and future priorities for operating the city and creates shared commitments between management of the city and residents regarding the goals and strategies required to appropriately address the priorities.

Although the city has *Project Blueprint* (a city-wide infrastructure improvement program for roads, drainage and sewerage) and is in the process of preparing a 5-year financial forecast, there is no overall formal strategic plan for all areas of the city. A strategic plan is needed before an infrastructure improvement program can be properly prepared and before a reliable financial forecast can be completed.

The city should:

- Develop and adopt a strategic plan that includes the objectives for both short-term and long-range goals for the city
- Monitor the strategic plan, at least quarterly, to assess whether the city is on target with the plan
- Use the strategic plan in decision-making processes and for budgeting (e.g., projects to undertake, major purchases, contracting, etc.)

Controls Over Contracts

The city needs to improve controls over contracts. Sound business practices dictate that appropriate checks and balances be put into place to ensure that contracted services are necessary and that they are performed at the most cost-efficient manner. Also, without a competitive atmosphere and control over specific deliverables, the city cannot be assured that services are appropriate, cost effective, and actually received. In addition, sound business judgment dictates that all contracts be in writing and reviewed by legal counsel.

We selected several contracts for a detailed review and the following are the deficiencies in the city's administration and monitoring of those contracts:

1. There was no documentation as to whether contracted services were necessary or needed by the city. Also, no formal analysis was performed of the financial impact to the city and whether contracting out services was the most cost-efficient manner for accomplishing the city's objectives. Three examples of contracted services that may not be necessary or needed by the city are as follows:

Ponchartrain Center

The city pays approximately \$100,000 per year to SMG (Spectacor Management Group) to manage the Ponchartrain Center on the city's behalf. However, in addition, the city paid \$69,576 (\$5,798 average per month) in 2003 and \$76,081 (\$6,340 average per month) in 2002 to Cochran, Sternhell & Associates (CSA) to monitor SMG's management of the Ponchartrain Center and prepare an annual economic impact study. The payments made to CSA may not be fully necessary or needed.

We compared the management arrangement of the city's Ponchartrain Center to the City of Baton Rouge's Riverside Centroplex, since both cities have contracts with SMG to manage their arenas. We found that, unlike the City of Kenner, the City of Baton Rouge does not pay another company to "manage the manager." Rather, the City of Baton Rouge's monitoring of SMG's operations is performed internally, and they require



its auditor at year-end to perform certain procedures relating to the computation of SMG's management fee. (See finding, *Internal Auditor Needed*.)

Land Projects

On October 30, 2003, the city entered into a one-year contract not to exceed \$50,000 with Data Center for professional services. Councilman Johnson approved funding for this contract from his district funds (revenues derived from the Treasure Chest Casino). The services related to the (1) Airport's Aberdeen Corridor and Hollandey Street Project; (2) Kenner Land Use Study; (3) East-West Corridor Project; and (4) Development of Airport Buy-Out Properties.

As of March 24, 2004 (over 4 months subsequent to contract signing), no services have been performed under the contract. Mr. Cedric Floyd, the city's chief administrative officer and president of Data Center, informed us that he has no plans to perform work under the contract as long as he is a city employee. Mr. Floyd also told us that those services have not been contracted to anyone else. Because these services have not been performed for over 4 months and were not contracted to anyone else, there is apparently no evident need for the services. On March 25, 2004, subsequent to the completion of our field work, Mr. Floyd provided us documentation terminating his contract with the city.

Rental Storage

The city pays \$1,400 each month (\$16,800 yearly) to Larry Hooper for rental of four storage units for constructing and storing props and theatrical sets that may not be necessary or needed.

- The city has a workshop for constructing props and theatrical sets at its new theater and has storage space for props and theatrical sets at this theater and its old theater.
 - The Director of Community Services (Edgar Bernard) approved payments for the rental of the four storage units without his knowledge of where the storage units were located or their contents.
 - One of the storage units rented had not been opened for approximately 5 years and city officials were not aware that the city was even renting the unit. When the unit was finally opened upon our request, only about one-third of the unit was used to store various items.
2. For contracts we reviewed, there was no evidence that competitive prices were obtained. Although professional services are not required by law to be bid, the public is best served when competitive bidding practices are used for such contracts. The following are two examples of contracts that were awarded without using competitive prices:

Information Systems

The city uses and relies on one company to provide most information system (computer) services. The city paid \$654,767 (\$54,564 average per month) in 2003 and \$798,708 (\$66,559 average per month) in 2002 to Solutient without seeking competitive prices from other vendors. The city has used Solutient since 1988.

Public Relations and Marketing

The city uses a public relations company to provide public relations and marketing consultation services. The city paid \$319,548 (\$26,629 average per month) in 2003 and \$338,145 (\$28,179 average per month) in 2002 to LeBlanc and Schuster Public Relations, Inc., without seeking competitive prices from other vendors. The city has used LeBlanc and Schuster since 1996.

3. There is no centralized review and oversight to ensure that services received by the city comply with the terms and conditions of the contract. The finance department enters all contracts that it receives into a computer tracking system that includes the dollar limits and the beginning and ending dates of the contract. However, they are not provided with all city contracts and all relevant terms and conditions that should be monitored are



not entered into its system. Each department is assigned specific contracts for which they are responsible for monitoring. The following are three examples of where the city is not monitoring contracts:

Ponchartrain Center Hotel

The principal features of the contract proposal on file with CSA include contract management services and the delivery of an annual report describing the performance of the hotel and evaluating certain aspects of its operations and an economic impact report.

From July 1, 1998, through January 29, 2004, city records reflect a total of \$164,733 was paid to CSA for services relating to the Ponchartrain Center Hotel (Hilton Garden Inn). Although CSA invoices we reviewed reflected that professional services were rendered in contracting for management of the hotel, city officials were not aware of any reports or any other documentation submitted by CSA relating to the hotel's performance, operations, or economic impact. (See finding, *Internal Auditor Needed*.)

Kenner Convention & Visitors Bureau

The council approved payments of \$50,000 annually (for three consecutive years beginning in 2003) to the Kenner Convention & Visitors Bureau (Bureau). The Bureau is required, among other things, to provide a full-time office and staff to fulfill its responsibilities under the agreement.

We visited the Bureau's office during regular work hours on two different occasions in January 2004, and the office was closed. Also, the city is paying the monthly office rent (\$700) and electric bill of the Bureau, neither of which is required under the agreement.

Lawn Maintenance

The city has a contract with Louisiana Landscape Specialty, Inc., for the maintenance and upkeep of all lawn and landscaped areas located at 200 Decatur Street and 625 Veterans Boulevard for which the city pays \$830 a month. On January 16, 2004, we observed city employees putting mulch (pine straw) in all the flower beds at 200 Decatur Street. A city employee informed us that in addition to mulching the flower beds, city employees using city equipment, cut the grass, edged, and blew off all pavement areas for this location on the day before (January 15, 2004).

4. The LeBlanc & Schuster Public Relations, Inc., agreement was very general and open-ended. LeBlanc & Schuster Public Relations, Inc., agreed to provide the city with public relations and marketing consultation "necessary" to coordinate the implementation efforts associated with the city's marketing plan. However, there is no current written marketing plan. City officials could only provide us with a draft copy of a marketing plan for the 1996-97 fiscal year.

A total of \$319,548 was paid to LeBlanc & Schuster during 2003 for a number of different services. Because there is no current written marketing plan, we could not determine if the services performed and amounts billed to the city were part of the city's marketing strategy.

5. Consultant invoices did not always contain sufficient details as to the work actually performed. Therefore, we could not determine the services provided or whether the consultant was fulfilling its contract with the city. Examples are as follows:

Transportation Consulting Services

On March 3, 2003, the city entered into a one-year (\$3,300 each month) professional services agreement with S.W. Leader, Inc., for transportation consulting services, including monitoring operations of the Transit Agreement between Kenner and the Regional Transit Authority for the operation of the Kenner Loop bus service and the Kenner Park & Ride contract.



The contract requires S.W. Leader, Inc., to submit invoices to the city that specifically identifies the project names with an itemization of the work performed. The \$3,300 invoice for October 2003 did not reflect the specific project names with an itemization of the work performed. The invoice included only a general status report of the transit issues.

Police Patrols Over Safe Streets Everywhere (P.O.S.S.E.)

The police department entered into a professional services contract, effective October 1, 2003, with Katherine duTreil to act as the project director of the P.O.S.S.E. The contract details her specific duties and provides that she would be paid a maximum of \$2,625 a month “at a documented work period” of 125 hours per month (\$21 per hour).

We reviewed Ms. duTreil’s \$2,625 invoice dated November 26, 2003; however, the invoice did not document the specific duties performed or the specific dates and hours she worked during the month.

Accounting Services - Police Department

The police department engaged a financial consultant (William Vanderbrook, CPA) at a rate of \$100 per hour and other professionals at \$50 per hour for the year ended June 30, 2004.

We reviewed the payment of a \$2,900 invoice dated November 19, 2003, that was approved by the police chief; however, the invoice did not reflect a detail of specific accounting services performed nor did it include the number of hours worked or the rates used.

6. City payments were not always supported by written contracts. Examples are as follows:
 - Without a written contract, the city paid Ms. Lana Schneckenburger \$66,675 (\$5,556 average per month) in 2003 and \$82,594 (\$6,883 average per month) in 2002 for cutting grass.
 - The city paid, without a current written contract, \$69,576 in 2003 and \$76,081 in 2002 to CSA to monitor SMG’s management of the Ponchartrain Center and prepare an annual economic impact study. City officials could only provide us with an outdated (October 14, 1988) contract that covered the first 15 months of the Ponchartrain Center’s operations.
 - The city pays \$4,400 a month to P&G Rentals for office space for six units located at the Rivertown Square Shopping Center--2100 Third Street based on a verbal agreement. The lease agreement expired on December 31, 2000. In a letter from the mayor dated January 3, 2001, the city requested to extend the lease on a month-to-month basis under the same terms and conditions as outlined in the lease agreement until a new lease can be negotiated and written. A new lease was never made and no other written correspondence is available. Since the expired lease agreement, there have been changes in the number of units rented; however, the amounts paid for renting the units have remained the same.
7. City contracts were not always signed by the mayor. Examples are as follows:
 - The city pays \$9,400 per month (\$112,800 annually) to Solutient to manage the city’s geographic information system (GIS) and prepare the city for data warehousing; however, the contract proposal on file was not signed by the mayor or a representative of the company.
 - The city paid \$45,590 in 2003 and \$46,544 in 2002 to CSA for professional services relating to the Ponchartrain Center Hotel (Hilton Garden Inn); however, CSA’s contract proposal on file was not signed by the mayor.
8. There was no evidence that all contracts were reviewed and approved by the city’s legal counsel. It is important that all contracts be reviewed for legal form, legal sufficiency, and terms and conditions that are in the best interest of the city.



The city should:

- Review all contracts and cancel those where the contracted services are not necessary or needed
- Perform a cost/benefit analysis for all services contracted out to determine whether contracting services are the most cost-efficient manner for accomplishing the city’s objectives
- Obtain competitive prices for all contract services
- Consider revising the charter to provide a dollar threshold for contracts that require council approval
- Centralize contract monitoring/oversight to ensure that services received by the city comply with the terms and conditions of the contract
- Prohibit open-ended contracts and require that all contracts provide the specific services to be performed
- Require that consultant invoices contain sufficient details as to the work actually performed before payment is made
- Require that a legal advisor review all contracts before the documents are signed
- Require that all services and lease payments be supported by written contracts that are signed by both parties and maintained on file

Comparison of Costs and Operations

We compared the costs of legal and accounting services, audit fees, and benefits for council members with a similar sized city in Louisiana. Our comparisons revealed, without an apparent explanation, that the city pays more for those services and benefits. Management has a fiduciary responsibility to apply sound business practices in managing city funds in the most cost-effective manner possible.

Because of the following similarities, we used the City of Lake Charles, Louisiana, for our comparisons:

	<u>City of Kenner</u>	<u>City of Lake Charles</u>
Population (2000 census)	70,517	71,757
Form of Government	Home Rule Charter Mayor-Council	Home Rule Charter Mayor-Council
Total Assets - General Fund (F/Y 2002)	\$21,012,492	\$26,848,093
Total Revenues - General Fund (F/Y 2002)	\$33,495,402	\$39,965,991

Legal Services

According to information provided for 2002 and 2003, the City of Kenner paid approximately \$1.7 million more for legal services than the City of Lake Charles as summarized as follows:



<u>Year</u>	<u>City of Kenner</u>	<u>City of Lake Charles</u>	<u>Difference</u>
2003	\$1,442,575	\$656,938	\$785,637
2002	1,544,013	608,291	935,722
Totals	<u>\$2,986,588</u>	<u>\$1,265,229</u>	<u>\$1,721,359</u>

The most significant disparity between the two cities was the payments to outside attorneys. The City of Kenner paid approximately \$1.1 million more to outside attorneys in 2003 and \$1.2 million more in 2002 than the City of Lake Charles:

- The City of Kenner paid \$1,353,399 in 2003 and \$1,455,442 in 2002 to outside attorneys, which include payments of \$643,911 in 2003 and \$941,179 in 2002 to the city attorney (Ansardi, Maxwell & Power).
- The City of Lake Charles paid \$201,633 in 2003 and \$187,246 in 2002 to outside attorneys (including its city attorney).

We did not analyze the number of claims processed or the number of active lawsuits for each city during this period. However, management should consider these factors in determining whether its present method of obtaining legal services is the most cost-effective method. Management should analyze and compare the cost of having an adequately staffed legal department to the cost of contracting out legal services, as this method (contracting) has been very expensive as compared to the City of Lake Charles. (See finding, *Controls Over Contracts*.)

Accounting Services

The City of Kenner paid \$420,688 more to operate its finance department in 2003 (\$392,935 more in 2002) than the City of Lake Charles. The following shows a comparison of finance department operations for the City of Kenner and the City of Lake Charles for 2003 (audit fees paid are not included in the comparison):

<u>Year</u>	<u>Number of Finance Department Employees</u>	<u>2003 Expenditures</u>	<u>2003 Payments to Outside Accountants</u>	<u>2003 Total Finance Department Costs</u>
City of Kenner	13	\$500,680	\$603,981	\$1,104,661
City of Lake Charles	13	683,973	NONE	683,973
Difference	<u>NONE</u>	<u>(\$183,293)</u>	<u>\$603,981</u>	<u>\$420,688</u>

The most significant disparity between the finance departments was the \$603,981 paid to outside accountants (\$520,747 in 2002) by the City of Kenner. Although certain accounting functions are outsourced by the City of Kenner, those costs are an integral component of the total costs to operate the finance department.



FINDINGS AND RECOMMENDATIONS

Contracting out accounting services was a very expensive way for the City of Kenner to conduct finance department business as compared to the City of Lake Charles. Management should analyze the type of work being contracted out and determine if it would be more cost-efficient to adequately staff its finance department to perform this work in-house. (See finding, *Controls Over Contracts*.)

Audit Fees

The City of Kenner paid \$227,550 more for its 2002 and 2003 annual audits than the City of Lake Charles. The audits of the City of Kenner cost \$158,775 each year, whereas the cost to the City of Lake Charles was \$45,000 each year.

In the future, the council should solicit proposals from all qualified CPA firms statewide. Including more CPA firms in the proposal process will promote a more competitive environment and should result in a savings to the city.

Council Member Benefits

The City of Lake Charles operates under the same form of government (Home Rule Charter) with the same number of elected council members (7) as the City of Kenner. The following benefit comparisons demonstrate that council members of the City of Kenner receive more benefits compared to the council members of the City of Lake Charles.

Council Member Benefits	City of Lake Charles	City of Kenner
1. Secretaries and clerks	1 secretary/clerk - The Clerk of Council acts as the secretary for all seven council members and is responsible for the council minutes.	7 secretaries - Each council member has his own personal secretary. 2 clerks - A council clerk and assistant council clerk are responsible for the council minutes. Cost of Salaries - \$355,045 (\$39,449 average) in 2003.
2. Offices	A common area is provided that can be used by all council members.	7 offices - Each council member is provided his own private office.
3. Vehicles	No vehicles are provided to council members.	7 vehicles - Each council member is provided a city vehicle, including gasoline and insurance coverage at no cost. Cost of vehicles - \$133,635
4. Computers	No computers are provided to council members.	5 computers - Five of the council members are provided a lap top computer.
5. Palm Pilot	No palm pilots are provided to council members.	3 palm pilots - Three of the council members are provided a palm pilot.
6. Cell Phones	An allowance of \$50 a month is provided to each council member.	Each council member is provided a cell phone. The November 2003 bill averaged \$159 for each council member's cell phone.

Council member benefits should be reviewed to determine whether they are necessary and cost-effective.



Other Contracted Services

Although we did not review the cost comparisons, the City of Kenner contracts out the following services that the City of Lake Charles performs in-house:

- Public relations services
- Convention/Civic center management
- Landscape architect services
- Grass cutting services

Management should review these contracted services to determine whether it is the most cost-effective manner to perform such services. (See finding, *Controls Over Contracts*.)

Subdivision Entrance

The city council authorized the expenditure of city funds to renovate a subdivision entrance structure that was elaborate and costly and for which there was no documentation that the cost was commensurate to the public benefit. The city council has a fiduciary responsibility of setting policies and authorizing the expenditure of city funds in a prudent manner for which the public as a whole will benefit.

On March 6, 2003, the city council adopted an ordinance awarding a \$142,913 contract to Ahearn Construction to renovate the structure located at the entrance to Woodlake Estates Subdivision. Although the structure was within the city's public right-of-way, the council had no obligation to authorize the expenditure of public funds to renovate the structure. The project was elaborate and costly to the city's taxpayers while only benefiting a select few (approximately 400 homeowners). Spending public funds to beautify subdivision entrances sets an expensive precedent for the city.



Renovated Entrance Structure - Woodlake Estates Subdivision



The council should adopt a policy for the nature and extent of maintaining city structures and landscaping on public right-of-ways. This policy should require that documentation be maintained justifying the legal obligation and the public purpose and that the costs are commensurate with the public benefit.

Need to Improve Controls Over Purchasing and Disbursements

The city needs to improve controls over purchasing and disbursements. We reviewed 33 disbursements, totaling \$140,821, made during the period from February 28, 2003, through March 5, 2004. Our review of these 33 disbursements, including our general observations and inquiries, revealed the following:

1. Purchasing is not centralized because the police department maintains a separate purchasing department from the city.
2. Vendor numbers are assigned by the city's purchasing department and the finance department. Our review of the vendor listing revealed numerous vendors with the same address that have different vendor numbers.
3. The accounting system allows purchase orders to be created and invoices to be paid when an account is over budget.
4. Purchase orders are not sent to the finance department when the purchase order is issued by the purchasing department.
5. Receiving reports are not sent to the finance department upon receipt of the items by the receiving department.
6. Invoices are not received directly by the finance department from the vendor. The purchasing department receives the invoices directly from the vendors, matches the purchase orders and receiving reports, and sends these to the finance department for payment.
7. The same employee performs a variety of duties relating to cash disbursements that are incompatible for a proper system of checks and balances. The accounts payable clerk prepares and prints the checks, uses the check-signing machine to sign the checks, and mails/distributes the checks.
8. Signed checks and supporting documentation are not reviewed by the Director of Finance or his designee.
9. The department submitting the check request form has the option of having the signed check mailed to the vendor or having the check returned directly to them.
10. The check-signing machine, printer, and copier are located in the finance department's employee break room.
11. Payments were made for Christmas turkeys for city employees, a Christmas luncheon for police department employees, and a monthly retainer for police department's legal counsel, all of which payments are generally prohibited by Louisiana law. (See finding, *Prohibited Use of City Funds*.)
12. Documentation supporting certain police department expenditures is maintained at the police department instead of the city's finance department.
13. The city pays \$4,400 a month for office rental for six units located at the Rivertown Square Shopping Center--2100 Third Street without a written agreement. (See finding, *Controls Over Contracts*.)
14. Our review of certain contracts and related vendor invoices revealed that the invoices were very general and did not contain sufficient details as to the work actually performed (e.g., project name itemizing the dates the work was performed, hours required to complete and rates per hour or an itemization of the work performed). Thus, we could not determine the services provided or whether the vendor was fulfilling its contract with the city. (See finding, *Controls Over Contracts*.)



15. There is no written policy for the use of credit cards and filing expense reports supporting credit card charges.
16. Our review of credit card charges from September through November 2003 revealed that the business purpose and support for credit card charges by city officials was not documented. For example, during this period, the chief administrative officer charged \$467 at restaurants on eight different occasions (average of \$58 charged at each restaurant) for which the business purpose was not documented nor were the names of the persons participating in the meals documented. A councilperson charged \$228 at one restaurant for which the business purpose was not documented nor were the names of the persons participating in the meal documented. In addition, the restaurant receipts of food and beverages consumed for these restaurant charges were not included to allow for verification of the propriety of the charges.
17. The city has a travel policy and the police department has its own separate travel policy. Although the city has a travel policy, it does not provide specific guidance for lodgings or renting vehicles and does not distinguish between routine travel and conference travel.
18. Two citywide mailouts in March 2004, costing \$8,010 (postage and printing costs), included information from the acting mayor that gives the appearance of manipulating public opinion on public issues rather than providing unbiased public information. Louisiana Attorney General Opinion 93-78 provides that the use of public funds to finance public relations techniques to manipulate public opinion on public issues to create a body of public opinion favorable to a public official or entity is not permitted.
19. The police chief's name is included on certain promotional items purchased by the police department which is generally prohibited by R.S. 43:111.1.¹ These promotional items were ball point pens, a ruler, a coloring book for children, and a refrigerator magnet. The Attorney General has opined (AG No. 98-201) that while advertising is not prohibited, inclusion of the name of a public official therein is prohibited by R.S. 43:111.1.
20. Employee personal checks are cashed from the finance department's cash drawer.

The city should:

- Centralize purchasing (city and police department) to promote operational efficiency and encourage adherence to management's policy
- Allow vendor numbers to be assigned only by the director of finance or his designee and develop written procedures for adding and deleting vendors to/from the vendor listing and review the vendor listing periodically to ensure that only active vendors are included and that duplicate vendor numbers are not included in the listing
- Modify the accounting system to allow a purchase order to be created only when funds are available in the budget for that purchase
- Require that purchase orders and the related purchase requisitions be submitted to the finance department when the purchase orders are issued to the vendor
- Require that receiving reports be sent to the finance department and purchasing department upon receipt of the items by the receiving department
- Require that all vendor invoices be mailed directly to the finance department for the accounts payable clerk to match with the purchase requisition, purchase order, and receiving report
- Separate the accounts payable duties for preparing and printing checks, using the check-signing machine to sign the checks, and mailing checks to vendors

¹ R.S. 43:111.1 states, "No public funds shall be used in whole or in part for the payment of the cost of any advertisement containing therein the name of any public official whether elected or appointed; provided, however, that the provisions of this section shall in no case be construed to apply to advertisements placed by any public agency or body authorized by law to advertise in the furtherance of its functions and duties."



- Require that the Director of Finance or his designee review the signed checks, approved invoices, purchase orders, and receiving reports, along with the accounts payable edit to ensure that all payments are appropriate and supporting documentation is available and that this person give the signed checks to a person with no disbursement responsibilities/functions for mailing
- Prohibit returning signed checks to the department submitting the check request
- Provide a secure and confidential place where checks are signed and where printers are located
- Implement accounting procedures and controls over disbursements to reduce the risk of payments being made that are prohibited by Louisiana law or violate city policies
- Maintain all documentation supporting the disbursement of funds in the city's finance department and any exceptions be evidenced by a written policy
- Develop comprehensive procedures for using credit cards and the filing of related expense reports to document the business purpose and support for the charges
- Adopt one travel policy for both the city and police department
- Adopt procedures to ensure that mailouts by elected officials provide public information without manipulating public opinion on public issues
- Prohibit public officials from including their names on promotional items
- Prohibit the cashing of employee personal checks from the finance department's cash drawer

Prohibited Use of City Funds

Payments were made for Christmas turkeys for city employees, a Christmas luncheon for police department employees, and a monthly retainer for the police department's legal counsel, all of which payments are generally prohibited by Louisiana's constitution.² The following provides details of those payments:

- On December 2, 2003, \$1,466 was paid to Winn Dixie stores for 156 - \$10 gift cards (\$10 for 156 gift cards less a \$94 discount equals \$1,466 paid). The directors of public works, code enforcement, and community services approved requisitions for the purchase of the gift cards, which were for Christmas turkeys for their workers (public works - 124 workers, code enforcement - 24 workers, and community services - 8 workers). Louisiana Attorney General Opinion 91-589-A provides that a Christmas gift is a prohibited donation.
- A total of \$2,044 was paid to La Bella's Catering for the police department's Christmas luncheon held on December 24, 2003, at the Kenner Police Complex. Employees of the police department and council members were invited to attend. Louisiana Attorney General Opinions 94-115 and 91-589-A address meals for Christmas parties and conclude that such a private use of public funds would be prohibited by Louisiana's constitution.
- The city is paying a \$5,000 monthly retainer to the police department's legal counsel for being "available" to the police department. The city, unlike a private entity, must receive services with documentation of work actually performed to account for retainers paid. Louisiana Attorney General Opinions 91-589-A and 78-124 provide that if an attorney is not working full time for the entity, he should be paid only on a per hour basis for work actually performed.

² Article VII, Section 14(A) of the Louisiana Constitution of 1974 provides that the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private.



The city should cease paying for gifts and luncheons that do not serve a public purpose and cease paying the \$5,000 retainer to the police department's attorney. The city should implement accounting procedures and controls over disbursements to reduce the risk of payments being made that are prohibited by Louisiana's constitution or that violate city policies.

Controls Over Payroll

The city needs to improve controls over payroll. Our review of the city's payroll revealed the following:

- There are no written procedures for processing, reviewing, and approving payroll.
- Personnel functions are not centralized. The police department maintains a separate personnel department from the city.
- One employee (payroll clerk) performs a variety of duties relating to payroll that is incompatible for a proper system of checks and balances. The payroll clerk (1) adds and deletes employees in computer system; (2) makes pay rate changes/adjustments on employees; (3) prepares the payroll checks; (4) prints the payroll checks; (5) signs the payroll checks using the check-signing machine; and (6) distributes the checks to departments.
- The check-signing machine is located in the finance department's employee break room.
- Although a computer-generated report is available that shows all changes made to payroll for a specific period of time, it is not being reviewed by someone independent of the payroll and human resources departments.
- There is no approval of department heads time/leave.

The city should:

1. Develop and implement written procedures for processing, reviewing, and approving payroll
2. Centralize personnel functions (city and police departments) to promote operational efficiency and encourage adherence to management's policy
3. Segregate incompatible duties of the payroll clerk for a proper system of checks and balances
4. Provide a secure and confidential place where checks are signed
5. Assign someone independent of the payroll and human resources departments to review the computer-generated report that shows all changes made to payroll
6. Require the mayor or his designee to approve department heads time/leave

Related Parties

The council awarded contracts to a company whose owner is an immediate family member of a city employee. Also, the city employee received income from the company during her employment with the city.



The ethics law generally prohibits an immediate family member of a city employee from bidding on or entering into a contract with the city.^{3,4} Also, the ethics law prohibits a city employee from receiving anything of economic value from a company that has or is seeking to obtain a contractual relationship with the city.⁵ In addition, city policy prohibits employees from receiving direct personal gain from contractors doing business with the city.⁶

City Employee and Company Background

City records reflect that on November 30, 1998, the city hired Patricia Fertitta as Finance Clerk I and in March 2000, she transferred to the chief administrative officer's office as a Secretary II. In November 2001, Patricia Fertitta was assigned to the mayor as his secretary (Secretary III) until her resignation on January 7, 2004. Also, records reflect Joseph Fertitta, Sr. as her husband and Russell Fertitta as a son.

The city had two contracts (supplying sand and red mud) with Fertitta Excavating Contractors, Inc. (FEC) when Patricia Fertitta was hired by the city. Documents on file with the Louisiana Secretary of State's office reflect that Russell Fertitta (immediate family member) is the sole owner of the company and the officers are as follows:

- Secretary/Treasurer - Patricia Fertitta
- Vice-President - Joseph Fertitta, Sr. (husband)
- President - Russell Fertitta (son)

City Contracts Awarded to Company

The city continued to award those two contracts (supplying sand and red mud) to FEC after Patricia Fertitta was hired. In addition, two new contracts were bid and awarded to FEC (supplying self-hauled spillway dirt and for equipment rental with an operator).

The director of public works told us that Patricia Fertitta's son (Russell Fertitta) "runs" the company (FEC) and that is who he deals with on the contracts. The director of public works said he recommends the lowest bidder to the council for approval, but does not review contracts for conflicts of interest. He said that he did not know whether anyone was reviewing city contracts for conflict of interest/ethics violations.

³ R.S. 42:1113(A) prohibits a public servant, excluding any legislator and any appointed member of any board or commission and any member of a governing authority of a parish with a population of ten thousand or less, or member of such public servant's immediate family, or legal entity in which he has a controlling interest from bidding on or entering into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the agency of such public servant.

⁴ R.S. 42:1102 defines "immediate family" as the public servant's children, the spouses of children, brothers and their spouses, sisters and their spouses, parents, spouse, and the parents of the spouse. Also, a "public servant" is defined as a public employee or an elected official.

⁵ R.S. 42:1111(C)(2)(d) provides that no public servant and no legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent shall receive anything of economic value for or in consideration of services rendered, or to be rendered, to or for any person during his public service unless such services are neither performed for nor compensated by any person from whom such public servant would be prohibited by R.S. 42:1115. R.S. 42:1115(A)(1) provides that no public servant shall solicit or accept, directly or indirectly, any thing of economic value as a gift or gratuity from any person or from any officer, director, agent, or employee of such person, if such public servant knows or reasonably should know that such person has or is seeking to obtain contractual or other business or financial relationships with the public servant's agency.

⁶ Section 6.9 (Conflict of Interest) of the city's *Employee Handbook of Personnel Policies and Procedures* states, "No employee shall engage in any transaction with any vendor or contractor in which the employee would receive direct personal gain from a transaction involving the city."



Available city records reflect that during the 11 months in 1998 prior to Patricia Fertitta’s hiring (November 30, 1998), the city paid \$11,158 to FEC. After she was hired, records reflect the city paid \$1,209,402 to FEC as summarized as follows:

<u>Year</u>	<u>Payments to FEC</u>
1998	\$2,460
1999	194,652
2000	265,751
2001	287,460
2002	256,735
2003	<u>202,344</u>
Totals	<u><u>\$1,209,402</u></u>

City Employee’s Income From Company

Although ethics laws generally prohibit employees from receiving anything of value from a company that has or is seeking to obtain a contractual relationship with the city, Patricia Fertitta earned income from FEC during the same time period that she was employed by the city.

Patricia Fertitta’s available wage records on file with the Louisiana Department of Labor for the three-year period, 2000 through 2002, reflect that she earned a total of \$15,150 from FEC (\$7,600 in 2002; \$4,200 in 2001; and \$3,350 in 2000).

Also, Patricia Fertitta’s income from FEC (during the time she was a city employee) was prohibited by the *Bidder’s Statement of Non-Collusion* document signed by her son (Russell Fertitta - FEC’s president) on April 12, 2000. As a proposer and as a condition for continuing to submit bids to the city, Russell Fertitta certified the document which declared, “No employee or elected or appointed official of the City of Kenner will receive anything of economic value from me or my company, either directly or indirectly, if I am the successful low proposer for the sale to the City of Kenner of materials, goods or supplies.”

In addition, Patricia Fertitta’s income from FEC was contrary to a certain provision of the city’s *Employee Handbook of Personnel Policies and Procedures* (Section 6.9 - Conflict of Interest) for which she acknowledged receipt on the date she was hired.

Although the city has a brief section in its employee handbook addressing conflict of interest, the city should develop a comprehensive ethics policy, including requiring annual certification letters from all employees and council members attesting to their compliance. In addition, the city should designate an appropriate person to review all current and future contracts for related parties.

Internal Auditor Needed

An internal audit function is needed to assess and evaluate the city’s operations for risks, controls, compliance, ethics, economies, efficiencies, and safeguarding of assets. An internal audit function would provide management



with an independent, objective assessment of whether city policies and procedures are being followed and provide guidance in ensuring that proper controls are in place and working as intended for the safeguarding of assets. In addition, an internal audit function could aid management in reviewing operations and programs for economical and efficient use of resources.

The city has approximately 800 employees and total assets of approximately \$499 million which demonstrates the need for an effective internal audit function. In addition, an internal auditor could perform functions that are now performed by outside consultants, such as contract monitoring of the Ponchartrain Center and Ponchartrain Center Hotel (See finding, *Controls Over Contracts*).

Management should develop and implement an effective internal audit function.

Computer Equipment

City computer hard drives were destroyed by an employee without consideration of the Louisiana Public Records law. In addition, the city does not have a formal record retention policy for preserving public records. The Public Records law requires the city, in the absence of a formal and approved record retention schedule, to preserve and maintain public records for a period of at least three years.⁷ Also, the Louisiana Attorney General has opined that if employees conduct official business through electronic means, such communications are public records and fall within the reach of the Public Records law.⁸

The city's information system administrator (Mason Morris) said that he was not aware if there were any files on the two hard drives that he destroyed and that he was unaware of the Public Records law. He also said he did not back up or save the data, if any, that may have been on the hard drives and that he was not aware of a record retention policy of the city.

The information system administrator (ISA) told us that the mayor's secretary (Patricia Fertitta) asked him, in mid December 2003, for the best way to "clear off" their computers to get ready for the change in administration. He said that he suggested replacing the hard drives and that Mrs. Fertitta then approved the purchase of the new hard drives. We attempted to interview Mrs. Fertitta but she refused to answer any questions, on the advice of her attorney, unless our questions were in writing and provided to her in advance.

On or about December 22, 2003, the ISA said he went to the mayor's office and replaced the hard drives in both the server computer and Patricia Fertitta's computer. He told us that the two hard drives he removed were taken apart and thrown away in the trash. Destroying hard drives that were functioning properly is a waste of city property/resources.

⁷ R.S. 44:36(A) provides that all persons and public bodies having custody and control of any public record shall exercise diligence and care in preserving the public record for the period or periods of time specified for such public records in formal records retention schedules developed and approved by the state archivist and director of the division of archives, records management, and history of the Department of State. However, in all instances in which a formal record retention schedule has not been executed, such public records shall be preserved and maintained for a period of at least three years from the date on which the public record was made.

⁸ Louisiana Attorney General Opinion No. 01-155 (dated June 12, 2001) provides that if board members or employees are actually conducting official business through electronic communications, these private communications then become part of the public record and are subject to production under the Public Records Act.



Also, the ISA told us that he deleted about 20 files on the chief administrative officer's computer which were mostly e-mails. He said that e-mails (electronic communications) are not backed up and saved on the network system. Therefore, e-mails that relate to official business of the city, if any, are not preserved in accordance with the Public Records law.

The city should develop and implement a formal record retention schedule and set forth procedures to ensure that all city records, including e-mails, are preserved in accordance with the Public Records law.

Financial Management

The council is not reviewing the financial operations of the city on a monthly basis. The council has a fiduciary responsibility to monitor current financial information compared to the budgeted amounts to properly manage the city's fiscal operations.

The city's monthly budget and actual financial results are not presented and discussed in council meetings which indicate that the council is not using the budget as a management tool.

The council should be provided with the financial statements and budget comparisons for all funds each month. In addition, a concise summary and guide to the key issues and aspects of the operating and capital components of the financial statements and budget comparisons should be provided to the council. Also, a written policy should be adopted that provides the nature, extent, and frequency of financial reporting information that should be provided to management and the council.

Fixed Asset Records

The city's listing of fixed assets is not complete because it does not include the assets for the police department. In addition, the police department's furniture and equipment are not tagged. State law requires that the city maintain detailed fixed asset records, including the cost and date they were acquired.⁹ In addition, good internal controls over fixed assets require that every asset includes a tag identifying it with a number that can be cross-referenced to the detailed fixed asset records.

The city should maintain a complete list of all fixed assets of the city and identify [tag] all fixed assets that belong to the city and include the tag number on the detailed listing of fixed assets.

City Vehicles

The city does not have a fleet management policy and certain city vehicles are not properly marked in accordance with state law. In addition, the city does not report certain employees personal use of vehicles as taxable income as required by federal tax laws. A fleet management policy is necessary to provide guidance for the effective and

⁹ R.S. 24:515(B)(1) requires the city to maintain records of all land, buildings, improvements other than buildings, equipment, and any other general fixed assets, which were purchased or otherwise acquired. The records should include information as to the date of purchase of such property or equipment and the initial cost.



efficient use and operation of city vehicles. In addition, state law requires that the decal of the city's circular insignia be at least eight inches in diameter and be placed on the outside door on both sides of the city vehicles.¹⁰ Also, certain employer-provided vehicles are considered a fringe benefit under the federal employment tax laws.

The city, excluding the police department, has approximately 35 cars, 78 pick-up trucks, and 24 vans as of August 21, 2003. No policy provides the criteria for assigning these vehicles to city officials and employees (e.g., job requirements and number of business miles driven). We were informed that numerous city officials and employees drive city vehicles home each day. There is no written policy for this practice or written approval on file with the city that gives approval to use city vehicles to commute to and from work. In addition, no analysis was available of the number and type of city vehicles to determine whether they are necessary and whether they are the most cost-effective method of providing transportation to meet the needs of the city.

Also, federal tax laws generally require that adequate records be maintained that substantiates the business use of vehicles. However, public officials and employees of the city are not required to account for their business or personal use of city vehicles. In addition, the city did not determine the value of their personal use and include it in their wages as required by federal tax laws.

We observed numerous city cars that did not include the proper size decal of the city's insignia and it was not placed on the outside of each front door. These cars had the decal of the city's insignia placed on the car windshield and it was only 3½ inches in diameter.

The city should:

- Adopt a comprehensive fleet management policy that addresses the (1) criteria for assigning vehicles; (2) business use of vehicle; (3) personal use, including commuting to/from work; (4) completing and maintaining mileage logs; (5) assigning gasoline cards and personal identification numbers; and (6) proper care of city vehicles
- Analyze the number and type of city vehicles to determine whether they are necessary and whether they are the most cost-effective method of providing transportation to meet the needs of the city
- Place the correct sized decals of the city's insignia on the outside front doors on all city vehicles
- Comply with the appropriate federal employment tax laws and record-keeping requirements
- Amend the applicable payroll tax reporting forms and submit these to the appropriate federal and state taxing authorities

Cellular Phones

The city needs controls over cellular phones. The city provides cellular phones to the mayor, seven council members, and the police department (66 cellular phones). Also, the city pays allowances ranging from \$25 to \$100 each month to 22 employees as compensation for using their personal cell phones for city business. Our review of controls over cellular phones revealed the following:

¹⁰ R.S. 49:121 provides that every vehicle belonging to the state or to any of its political subdivisions shall have inscribed, painted, decaled, or stenciled conspicuously thereon, either with letters not less than two inches in height and not less than one-quarter inch in width or with an insignia containing not less than one hundred forty-four square inches, or if circular, not less than eight inches in diameter, the name of the subdivision of the state to which the vehicle belongs. The name of the political subdivision shall be placed on the outside of the door on each side of every automobile, truck or other vehicle.



- There were no written certifications from the mayor, council members, or police department personnel that all calls made were for city business.
- The city's cellular plan (excluding the police department) is expensive as the November 2003 bill was \$1,116 for the council members (\$204 each for four council members and \$100 each for three council members).
- There was no policy as to which city employees' duties and responsibilities require a cellular phone to accomplish their jobs.
- There was no documentation as to the basis for the wide range (\$25 to \$100 per month) of allowances provided to certain city employees.

The city should:

1. Develop detailed written procedures to be followed for the business use and care of cellular phones and, at a minimum, the procedures should:
 - Require city officials/employees who have city issued cellular phones to review their monthly phone bill and identify personal calls made or received and provide a written certification that they identified all personal calls
 - Require that the finance department bill each official/employee, at a standard rate for each minute, for all personal calls
 - Require that the finance department reviews the detailed monthly bills for propriety and reasonableness of phone usage and that the policy is being followed
2. Determine the minimum amount of airtime minutes needed per month for the city's cellular phones and negotiate a new contract when the existing contract expires
3. Discontinue providing cell phone allowances to employees and review employees' duties and responsibilities to determine which employees need cellular phones to accomplish their jobs

Homestead Exemption Violates Louisiana's Constitution

The city is providing property owners a homestead exemption in calculating their municipal property tax in violation of Louisiana's constitution. Louisiana's constitution prohibits the city from extending the homestead exemption to municipal taxes.¹¹ Also, the Louisiana Attorney General (AG) has stated that the constitution specifically prohibits the application of the homestead exemption to municipal taxes and has opined that the city is improperly applying the homestead exemption to its municipal ad valorem taxes.¹²

The city received AG opinions in 1989 and again in 2004 opining that the city may not apply the homestead exemption to municipal ad valorem taxes. However, since 1984, the city has annually provided its property owners with a homestead exemption (up to \$75,000).

¹¹ Constitution of the State of Louisiana of 1974, Section 20(A)(3) provides that the homestead exemption shall not extend to municipal taxes.

¹² AG Opinion No. 03-0184 (dated January 27, 2004) states, "Article 7, Section 20 of the Louisiana Constitution of 1974 specifically prohibits the application of the homestead exemption to municipal taxes." Also, the AG opined that the City of Kenner is improperly applying the homestead exemption to its municipal ad valorem taxes. In addition, the AG previously opined to the City of Kenner in AG Opinion No. 89-232 (dated May 2, 1989) that the establishment of a homestead exemption for municipal ad valorem taxes is unconstitutional.



For 2002 and 2003, the homestead exemption resulted in the loss of city revenues totaling \$2,035,306 and \$2,983,784, respectively. Although providing the homestead exemption on municipal property taxes is contrary to the constitution and the AG's opinion, the council maintains that the exemption is a temporary abatement of tax which it has full authority to authorize.

The city should discontinue the homestead exemption or pursue the validity of the AG opinions in the courts if it plans to continue allowing the homestead exemption.

Written Policies and Procedures

The city's policy and procedure manuals are not complete. Formal/written policies and procedures are necessary as a clear understanding of what should be done, how, who, and when it should be done, and that the procedures followed meet management's expectations. Also, written procedures aid in continuity of operation and for cross-training of staff.

The city does not maintain written policies and/or detailed procedures for the following:

1. Retention of public records, including electronic communications (e-mail)
2. Nature, extent, and frequency of financial reporting information provided to council
3. Processing, reviewing, and approving payroll
4. Use of credit cards and filing expense reports supporting credit card charges
5. Recording, tagging, and safeguarding fixed assets
6. Accounting for the business and personal use of cellular telephones
7. Fleet (vehicle) management
8. Monitoring bank balances and investments to ensure that funds are fully secured
9. Storing, issuing, and accounting for traffic tickets and summonses
10. Periodic testing of the computer contingency and recovery plan
11. Operating the recreational leagues and all-star programs, including the specific policies and procedures for allowing participation by all children of the city

Management should maintain policy/procedure manuals that include these matters.





The City of Kenner (city), Louisiana, operates under the provisions of a home rule charter and is governed by a seven person council and a mayor, all elected positions. The city is the largest incorporated area in Jefferson Parish with a population of approximately 70,000 residents.

With the exception of the police department, the city's department heads report to the chief administrative officer who in turn reports directly to the mayor. Although the police department is administered by an elected chief of police, the police department is a function of the city's primary government and is not legally separate from the city.

The city provides police and fire protection; sanitation services; the construction and maintenance of highways, streets, and infrastructure; recreational activities; and cultural events.

There are approximately 800 city employees (280 fire and police and 520 other).

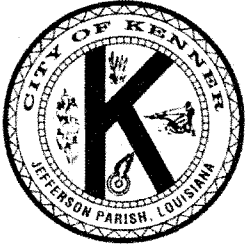
Our procedures consisted of:

- (1) examining selected city records;
- (2) applying our *Checklist of Best Practices in Government*;
- (3) interviewing certain officials and employees of the city;
- (4) reviewing applicable Louisiana laws and Attorney General opinions; and
- (5) making inquiries of other persons to the extent we considered necessary to achieve our purpose.









CITY OF KENNER

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Kenner, Louisiana 70062
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Philip L. Capitano
Mayor

Mayor Capitano's Responses to the Legislative Auditor

Mayor Capitano was elected Mayor for the City of Kenner on March 9, 2004 and sworn into office on March 23, 2004. The Legislative Auditor's findings were presented to Mayor Capitano just six days after being sworn into office.

1. Strategic Plan

Mayor Capitano has established a transition team to review all areas of city government. The Transition Team through each of the committees will study the policy, operation, and practices of the agency/department to see how to improve services to the citizens. Through the Transition Team's recommendation and further input through advisory committees/personnel, Mayor Capitano will prepare a one, five, and ten-year strategic plans. The plan will be reviewed and updated periodically.

2. Control Over Contracts

Mayor Capitano believes contracted services should be necessary and performed in a cost-efficient manner with appropriate checks and balances to be sure tax dollars are spent wisely. Mayor Capitano will reclassify a position for an "Internal Management and Compliance Officer" which, among other job duties, will monitor whether contracted services were appropriate, cost effective, and actually performed. The contracts will also be monitored on a departmental basis.

Mayor Capitano will establish a fair and open system for the awarding of professional service contracts. He will also implement a "computer tracking system for contract monitoring" to provide oversight and centralized review of contracts. The Mayor will also sign all contracts for the city.

Additionally, Mayor Capitano will require that all non-employee services that are rendered be through a written contract with specific deliverables. Contracts will be forwarded to an attorney for review as well as the Internal Management and Compliance Officer to be sure contract requirements by this administration are met.

3. Comparison of Costs and Council Benefits

Mayor Capitano cannot comment on the comparison of another city to Kenner without specific details on that city, citizen benefits, or how it specifically operates. Additionally, without specific information regarding claims or lawsuits against the City of Kenner, it is

impossible to adequately compare our two cities. However, Mayor Capitano is committed to reducing legal and liability cost to Kenner citizens. The mayor will review the services that we will pay to outside firms to determine the most efficient and cost-effective manner to administer these services to Kenner citizens.

4. Subdivision Entrance

No response.

5. Need to Improve Controls over Purchasing and Disbursements

Mayor Capitano will review all purchasing and disbursement policies and will make a recommendation to the City Council for a comprehensive policy for controls over purchasing and disbursements to promote operational efficiency and encourage adherence to management's policy.

Mayor Capitano sees a redundancy of services and is encouraging the Police Department to utilize the city's resources such as purchasing, personnel and other various resources to promote operational efficiency and to eliminate duplication of services which will save tax dollars.

Mayor Capitano will also make a recommendation to the City Council as well as implement policies regarding credit card use, travel, retainer payments to vendors, and gifts/luncheons that do not serve a public purpose.

Vendor listings will be reviewed periodically and a written policy for the adding or deleting of vendors will be forwarded to the Finance and Purchasing Departments.

Mailouts have been utilized by the two previous mayors as well as the acting mayor. Their purpose was to inform the citizens of Kenner. Mayor Capitano plans to periodically inform the citizens through mailouts as well as several other venues.

The Finance Department cashes personal checks from city employees up to \$25 as a convenience and there have been no problems or mismanagement in the accounting of this money.

6. Prohibited Use of City Funds

Mayor Capitano will implement policies and also make a recommendation to the City Council and Police Chief regarding retainer payments to vendors and gifts/luncheons that do not serve a public purpose.

7. Controls Over Payroll

The city does have a manual outlining procedures for processing payroll. In the short term, Mayor Capitano intends to promote operational efficiency by recommending to centralize personnel functions. In the long term, Mayor Capitano also favors implementing a comprehensive performance-based civil service system for all

employees, excluding fireman and policeman. This would centralize all personnel issues.

Although the payroll clerk does perform a variety of duties there are several controls that already exist in the system. New employees are added by the Personnel Department, not the Finance Department. Additionally, we will implement a control in the system that will not allow the payroll clerk to set up a new employee. We will also have another employee review all changes to employee pay rates. Under a performance-based civil service system, an independent board will review employee categories and pay rates.

Related Parties

Mayor Capitano will direct legal counsel to send a memorandum to all elected officials and department heads during the city's annual audit reminding them of the laws regarding related party transactions. Mayor Capitano will also require all employees, upon hire, to sign a document certifying that they understand and will comply with related party transactions.

9. Internal Auditor Needed

The city's Internal Management and Compliance Officer will assess and evaluate the city's operations for risks, controls, compliance, ethics, and efficiencies. The officer may request additional personnel with expertise in these areas to provide and implement an effective internal audit function.

10. Computer Equipment

Mayor Capitano will emphasize the current policies and procedures and will develop and implement a formal record retention policy for all city employees. Mayor Capitano will require all pertinent personnel to sign off on the policy. Mayor Capitano will develop a general transition policy to ease the transition of newly elected officials.

11. Financial Management

Mayor Capitano will forward the recommendations of the Legislative Auditor to the Council President. Mayor Capitano, after meeting with the Council President and other Council members, will implement a written policy outlining important financial information as well as the frequency of the financial reporting that is to be forwarded to Council members for review.

12. Fixed Asset Records

The Police Department handles its own assets. This is another duplication of services and the Mayor recommends that the Police Department maintain their fixed asset listing through the city's Purchasing Department as all other departments currently do.

13. City Vehicles

Mayor Capitano is in a transitional period and will consider the legislative auditor's recommendation regarding vehicle policy and will make a determination whether the necessity of additional city vehicle policies are needed.

14. Cellular Phones

Mayor Capitano will institute a policy that the Mayor, Police Chief and Council members will be provided a cell phone allowance in lieu of use of a city phone. Additionally, the Mayor will be reviewing city wide cell phone use and will make recommendations considered necessary.

15. Homestead Exemption

The City Attorney has reviewed the city homestead exemption and does not feel it is in violation of the law. Mayor Capitano fully supports the homestead exemption for Kenner residents.

16. Written Policies and Procedures

Mayor Capitano is in a transitional period and is currently reviewing all policies and procedures and will make any applicable policy/procedural changes as deemed necessary.



Kenner Police Department
Office Of The Chief

April 2, 2004

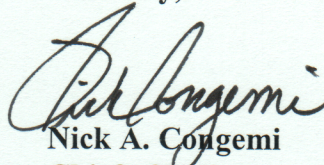
NICK A. CONGEMI
Chief of Police

Mr. Grover C. Austin, CPA
First Assistant Legislative Auditor
Office of Legislative Auditor, State of Louisiana
Post Office Box 94397
Baton Rouge, LA 70804

Dear Mr. Austin,

Attached hereto is management's response to the preliminary draft of the Legislative Auditor's report of which I kindly ask to be included as part of the Legislative Auditor's final report.

Sincerely,


Nick A. Congemi
Chief of Police

NAC/ct

A. KPD CATERED FUNCTIONS

The City of Kenner Police Department (KPD) acknowledges that it has paid a catering service for the police department's Christmas luncheon held on December 24, 2003, at the Kenner Police Complex given for its employees and for which council members were invited to attend, but denies that this was private use of public funds which did not serve a public purpose.

This type of function has many benefits which serves the public interest. First, the event is given to employees of the KPD in appreciation of their service throughout the year. Acknowledgment of job performance and an expression of gratitude for a job well done has a direct bearing on departmental morale and helps instill a sense of purpose and confidence for the men and women of the KPD in their crime fighting efforts.

Second, by inviting council members of the City of Kenner, KPD employees are collectively and/or individually able to interact with the elected representatives of each district in the City on a face to face basis, which allows for a dialogue to exist amongst City servants.

Third, the KPD police officers work 12 hour shifts which are opposite each other. By having an event in which all police department personnel are invited to attend, Law Enforcement officers, who may know each other on a name only basis, are given the opportunity to interact with each other to discuss a variety of law enforcement topics of mutual interest which has a direct effect on the service they provide to the community.

Fourth, this type of function offers a host of intangible benefits which inures to the public benefit, such as, good will, camaraderie, organizational pride, civic respect, etc., all of which has a direct bearing on the quality of service rendered to the public.

Finally, having stated the above, if the Legislative Auditor is still of the opinion that meals for Christmas parties, award functions or departmental gatherings is a private use of public funds which may be prohibited by the Louisiana Constitution, the KPD is willing to stop this practice although it feels to do so will be to the detriment of law enforcement in the City of Kenner.

B. ACCOUNTING SERVICES

Although the Legislative Auditor has only reviewed one invoice of the KPD's certified public accountant, this financial advisor is in agreement with the recommendation of the Legislative Auditor's Office and he will improve the description of services in conjunction with the hours worked at a specified rate.

C. POLICE PURCHASING DEPARTMENT

The Police Department does not maintain a separate purchasing department. Due to the size and budget of the Police Department, we have initiated a Fiscal Affairs Office. The primary function is to order and receive supplies and goods for internal fiscal management. All purchasing or payments are directed to the City Purchasing Department to insure they comply with all legal requirements.

D. POLICE PATROLS OVER SAFE STREETS EVERYWHERE (P.O.S.S.E.)

The KPD has contracted with Katherine duTreil, to act as Project Director of P.O.S.S.E.

As Project Director, it is her responsibility for the implementation and administration of this program as a Comprehensive Community Traffic Safety Program.

Her duties consist of analyzing traffic enforcement statistics in the City of Kenner; reporting accomplishments, problems and obstacles encountered in traffic enforcement in the City of Kenner, making recommendations to the Chief of Police as to community needs and planning for the improvement of traffic enforcement, as well as public awareness; conducting public education and media advertisement campaigns to promote traffic safety awareness, including appearances by the "Crash Test Dummy's", and child passenger safety awareness services; scheduling overtime enforcement directed at target violations and maintaining all records of such enforcement; and reporting all of the above to the Chief of Police.

Ms. duTreil rarely works only 125 hours per month and on an average , she donates an additional 25 hours per month because of her commitment and dedication.

In order to satisfy the Legislative Auditor, the KPD has requested Katherine duTreil, Director of P.O.S.S.E., to submit a more detailed document specifying duties performed and/or the specific dates and hours she worked during the month.

E. MONTHLY RETAINER FOR LEGAL COUNSEL

It seems that the Legislative Auditor has taken a position that retainer agreements between professional individuals and political subdivisions of the State are in and of themselves prohibited by Article 7, Sec. 14(A) of the Louisiana Constitution of 1974.

Although there are no professional ethical considerations, statutory prohibitions or judicial decisions to support its position, in its preliminary draft of its report, the Legislative Auditor has relied on Louisiana Attorney General Opinions 91-589-A and 78-124 to conclude that the KPD should cease paying a monthly retainer to the police department attorney even though the Attorney General in Opinion No. 91-589-A, declined to find the retainer contract at issue in that opinion as improper, per se.

In Opinion No. 91-589-A, the Attorney General stated:

“In our opinion numbered 78-124, ‘if the attorney is not working full time in the clerk’s office, he should be paid only on a per hour basis for work actually performed.’ The hourly contract certainly is the preferred practice: for the flat rate contract to be lawful and not violate Art. 7 Sec. 14 of the La. Const. 1974, payments should not be made prior to the work being performed, the work must be actually performed every month. For the above reasons we decline to label the contract in question as per se improper.”

The Legislative Auditor states in its report that the Police Department’s Legal Counsel is being paid a sum of money for being “available” to the Police Department with the inference being that money is unearned.

The KPD has paid its legal counsel a monthly retainer as payment of an availability fee in accordance with Rule 1.5(f) of the Rules of Professional Conduct as adopted by the Louisiana State Bar Association.

This service is one component of the contract which exists between the KPD and its legal counsel and it is an important service rendered to the department as it assures that its attorney is available on a 24 hour basis to handle all exigent matters which often arise at inopportune times and on short notice, as well as, ensures that the department’s legal affairs will be handled on a priority and preferential basis.

The availability fee is a flat rate monthly fee for professional services rendered daily at an expense to department’s counsel which has been very productive and cost effective to

the Police Department.

Additionally, the availability fee is conjoined with the hourly rate provision of the contract.

The departmental legal counsel is uniquely qualified to serve as the attorney for the KPD. He is a lawyer with 28 years of trial experience, including 12 years in the criminal justice system, 8 of which were served as a state prosecutor and 4 of which were as a defense lawyer. For the past 25 years he has had an extensive trial practice involving civil and criminal cases and, during his career, he has 16 years of practice in civil service law. He has not only represented the current Chief of Police for the past 14 years, but also, his predecessor for several years.

This attorney has reviewed and/or negotiated every contract pertaining to the KPD for the last 14 years, represented the Office of the Chief of Police in State and Federal Court on matters of professional liability, negligence claims, charter issues and contractual disputes, etc., as well as, handled the myriad of daily legal affairs which effect the City of Kenner Police Department.

Without belaboring counsel's resume, the point is that this attorney's hourly rate, absent the present contract, would be in the range of \$200.00 - \$225.00 per hour, therefore, the current contract for legal services was conjoined to be a cost effective measure which procures for the department effective legal representation on a priority and preferential basis at a reduced hourly rate, i.e., \$125.00 per hour.

F. PROHIBIT PUBLIC OFFICIALS FROM INCLUDING THEIR NAMES ON PROMOTIONAL ITEMS

The Police Chief does not consider the items listed by the Legislative Auditor as strictly promotional items or advertising but will follow the recommendation of the Legislative Auditor and discontinue the practice of including his name on items which might be construed as promotional.

G. CONCLUSION

In November 2001, the Kenner Police Department first received international accreditation from the Commission on Accreditation for Law Enforcement Agencies (CALEA). Having CALEA accreditation means that our department meets 365 professional standards for law enforcement.

In order to keep this prestigious status, the department must complete a reaccreditation process every three years. In August 2004, CALEA representatives will return to the KPD for an on-site assessment that will determine its reaccreditation. To prepare for this assessment, the Chief of Police appointed an officer in 2003 to conduct detailed staff inspections of each section of the department to further ensure the KPD is operating as efficiently as possible. When KPD inspects each area of its organization, it evaluates the skills and morale of its members, the quality of its service to the city, the effectiveness of its administration and the efficient use of resources.

Through CALEA and through the recommendations of the legislative auditor, the Kenner Police Department is committed to striving for professional and fiscal excellence in order to provide the community with the highest level of safety and it appreciates the concerns of the Legislative Auditor's Office and its opinions related thereto. The Kenner Police Department will take into consideration the recommendations of the Legislative Auditor.



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**RESPONSE TO LEGISLATIVE AUDITORS'
REPORT OF MARCH 29, 2004**

**FROM: LOUIS J. CONGEMI
APRIL 7, 2004**

Louis J. Congemi
253 Moss Bayou Lane
Kenner, LA 70065

April 7, 2004

Mr. Grover Austin
First Assistant to the Legislative Auditor
Post Office Box 94397
Baton Rouge, LA 70804-9397

Dear Mr. Austin:

Thank you for your recent revised (3/29/04) audit report concerning the City of Kenner. As you know I am no longer the Mayor of Kenner which creates a disadvantage in my ability to respond fully to your report. Those that could possibly have helped in responding were warned not to do so. That being said, I will do my very best to respond to the report using my memory and information received from individuals outside of government.

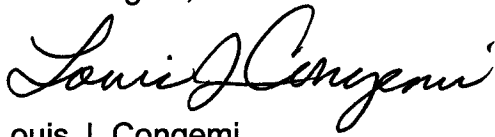
Mr. Austin, I would be remiss if I did not compliment the two gentlemen who worked on the report. Mr. Sloan and Mr. McCrary were professional, open-minded and understood the interim Mayor's obsession to try and use the report to embarrass me and my administration. Sources have relayed to me that immediately following my resignation on 12/31/03, Acting Mayor Dominic Weilbaecher began copying and removing documents from the file room. I was told by these same sources that in the dark of night Mr. Weilbaecher made at least 5,000 copies of different types of files. Reports also indicate that the Acting Mayor tampered with contracts and other documents. All one needs to do is refer to your report of 3/29/04 (page 17 & 18) to confirm that Mr. Weilbaecher would go to any extent in his slanderous attempts to embarrass my administration.

As Mayor of the City of Kenner for eight years, I am proud of what we achieved and would match my accomplishments with any comparable city. It should be noted that we received many awards for our work particularly in the area of finance. This is not to say that there isn't room for improvement. I realize that with any enterprise as large as the City of Kenner there is always going to be a need to do things better. I know that you know that the perfect world does not exist here on earth and as long as humans are responsible, mistakes will be made.

April 7, 2004
Mr. Grover Austin
Page Two

I want to thank you again and hope that those that follow me as Mayor will use your report to make Kenner an even greater place to live. As I said earlier in this letter, I will do my very best to respond and add a few suggestions of my own.

Thanks again,

A handwritten signature in cursive script that reads "Louis J. Congemi". The signature is written in black ink and is positioned above the printed name.

Louis J. Congemi

Response

Strategic Plan

I cannot disagree with the report recommendation on how to improve in the area of planning. Although we felt that we were keeping the Council, the public and the press informed with respect to our goals. Kenner Vision, Project Blueprint ads in the Kenner Star and our State of the City address on Cox Cable were all attempts to communicate plans for the City's future.

Response

Controls Over Contracts

Pontchartrain Center

The contract between the City of Kenner and CSA was initiated prior to 1996. My experience with this arrangement showed that it was a good one for the City. The cost of the third party administrator seemed reasonable considering the Pontchartrain Center has an economic impact of over \$20 million per year. My limited research indicates that third party administrators are fairly widespread around the country (Florence, South Carolina – Gwinnett County, Alabama, the Civic Center in Pittsburg and the Atlantic City Civic Center.)

Comparing the Centroplex in Baton Rouge to the Pontchartrain Center in Kenner should be a perfect example of why a third party administrator is necessary and not the other way around. Had the Centroplex had a third party administrator prior to 1996 they would not have had the problems associated with mismanagement. Instead they chose to operate it with city employees with oversight by a city employee charged with contract management. That arrangement was an absolute failure.

Response

Controls Over Contracts - Land Projects

Auditors are right on target with this contract. I refused to use General Fund money to support this contract. This contract was ultimately funded by Councilman Marc Johnson using his district fund account. Councilman Johnson felt that this study would either delay or stop the Aberdeen Street access to the airport.

Controls Over Contracts - Rental Storage

While it is true that the theatre has space in the rear for storage, they did not have enough. The operators of the theatre were aware of the additional storage space. The fact that Mr. Edgar Bernard was unaware of the location of the units while approving payments is inexcusable. Had this been brought to my attention he would have been disciplined

Response

Controls Over Contracts - (2 & 3)

For years contracts have been a source of debate between various public officials. The main issue over the years has been the Council's lack of involvement in approving professional services contracts. By Charter the Mayor in the City of Kenner has the power to approve and sign all professional service contracts. I see the necessity to change this outdated arrangement.

While I believe the contracts in this report represent less than one percent of all contracts signed from 1996 – 2003, I do see the obvious need for change. A Charter change allowing all contracts to be approved by the Council would certainly lessen the room for error. Contracts approved by the Council would also receive scrutiny by the legal department prior to appearing on the agenda.

The history of having the Directors of each department keep track of contracts also needs to be changed. One individual, preferably someone with a legal background, should be assigned to review and update all contracts.

Response

Controls Over Contracts - Public Relations and Marketing

Just because something is not put out for public bid, it does not mean the price was not shopped or that it is not below the market. The best value for professional service can frequently be negotiated.

The city's contract with Leblanc & Schuster is at \$75 per hour. That is substantially below their normal fees and below the market rate which is \$85 to \$100 per hour. An outline of the marketing plans and implementation calendar is attached, as well as cost breakdown from their invoices. Because many of the elements of our market plan revolved around projects like the simulator, planetarium or city park, that were proposed or under construction, the plan needed to be flexible enough to accommodate construction delays like the planetarium or cancellation like the simulator.

The public relations consultants however, met regularly with the CAO or designees to constantly review and/or modify the plan. Every ad, project or brochure was approved before being implemented. The LeBlanc & Schuster invoices are itemized and track the marketing plan.

Response

Controls Over Contracts - (#4)

To say that there was no current marketing plan is incorrect. Attached is a copy of the estimated cost and a copy of the marketing plan for the 2003 – 2004 year.

LeBlanc & Schuster Public Relations, Inc.

City of Kenner Report

January through December 2003

PR 180	General Consulting and Retainer	\$ 33,300.00
PR 100	Newspaper Advertising	\$ 71,948.00
	KennerStar, Times Picayune	
PR 105	Magazine/Journal Advertising	\$ 11,754.00
	Jeff. Annual Business Report, Jeff Visitor's & Conv Guide, New Orleans Mag, Prime, LTPA Publications	
PR110	Misc Publications	\$ 3,679.00
	John Curtis Christian Lower School, Riverdale Theatre, LA Bicentennial , Be a Tourist in Hometown Coupon, KPWA, Shriners, Jeff Parish Community Map, Bonnabel Football Program	
PR115-118-20	Radio Production & Advertising	\$ 17,097.00
	12th Night, Lundi Gras, Family Day, Halloween	
	Special Economic Development project --Bicentennial of the LA Purchase Advertising	\$ 55,000.00
PR 125-232	Website/Internet Link	\$ 1,800.00
PR140-41	Billboard production	\$ 7,513.00
PR 145	Design and production for print advertising	\$ 27,032.00
PR 148	Photography	\$ 4,210.00
PR 160	Printing for Misc Publications	\$ 15,156.00
	Kenner Insider, KennerVision, Family Day, Open House, Halloween, Posters and Flyers	
PR 190	Misc. mail processing and courier charges (Including postage \$7,972)	\$ 11,009.00
PR 150-220-231	Misc. special projects	\$ 40,366.00
	Newcomers Guide, writing KennerVision & Kenner Insider, Speech Consultation, Land Use Plan	
	Event Planning for Homeland Security & Rally for America, production of LA Bicentennial project	
PR-230	Print, production and distribution of 2000 Annual Popular Financial report	\$ 7,048.00
	Total	\$ 306,912.00

2003-2004 ADVERTISING

TV/ Radio	JULY	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE
Radio			Family Day Pow Wow- free radio spots on Radio Disney	Halloween Event			Twilight at Twelfth Night	Lundi Gras	Planetarium opening ???	Planetarium opening ???	Planetarium opening ???	
WWL	Tourist In Your Own City (proposed)	Tourist In Your Own City (proposed)							Planetarium opening ???	Planetarium opening ???	Planetarium opening ???	LA Made/LA Proud
CABLE									Planetarium opening ???	Planetarium opening ???	Planetarium opening ???	
Web Links	New Orleans.com Link nomcvb.com louisianatravel.c om (tpa) jcvb lpb.org (free)	New Orleans.com Link nomcvb.com louisianatravel.c om jcvb lpb.org (free)	New Orleans.com Link nomcvb.com louisianatravel.c om jcvb lpb.org (free)	New Orleans.com Link nomcvb.com louisianatravel.c om jcvb lpb.org (free)	New Orleans.com Link nomcvb.com louisianatravel.c om jcvb lpb.org (free)	New Orleans.com Link nomcvb.com louisianatravel.c om jcvb lpb.org (free)	New Orleans.com Link nomcvb.com louisianatravel.c om jcvb lpb.org (free)	New Orleans.com Link nomcvb.com louisianatravel.c om jcvb lpb.org (free)	New Orleans.com Link nomcvb.com louisianatravel.c om jcvb lpb.org (free)	New Orleans.com Link nomcvb.com louisianatravel.c om jcvb lpb.org (free)	New Orleans.com Link nomcvb.com louisianatravel.c om jcvb lpb.org (free)	New Orleans.com Link nomcvb.com louisianatravel.c om jcvb lpb.org (free)
Billboards		Italian Heritage	Laketown Family Day Pow Wow	Halloween Event	Open House Banner at Shriner's Circus @ Pontchartrain Center	Twilight at 12th Night	Twilight at 12th Night	Lundi Gras	topic tbd	topic tbd	topic tbd	topic tbd
Rivertown Sign	Family Fun Close at Hand	Italian Heritage	Pow Wow	Halloween Event Open House (continued into half of November)	Open House	Christmas Village/ 12th Night	Twelfth Night	Lundi Gras	topic tbd	topic tbd	topic tbd	topic tbd

2003-2004 ADVERTISING

Print	JULY	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE
Times Picayune				Kenner Tabloid Open House Center Double						Planetarium opening ???	Planetarium opening ???	Planetarium opening ???
				Halloween event 1/2 pg. zone ad								
Lagniappe			Granparents Month 1/2 pg. Family Day full page			X-mas Village 1/2 pg.		Lundi Gras 1/2 page		Planetarium opening ???	Planetarium opening ???	Planetarium opening ???
Kenner Star	1/2 page Rivertown ad	1/2 page Rivertown ad	Granparents Month 1/2 pg.	Open House Center Double	1/2 page Rivertown ad	X-mas Village 1/2 pg.	Twelfth Night 1/2 page	1/2 page Rivertown ad	1/2 page Rivertown ad	1/2 page Rivertown ad	1/2 page Rivertown ad	1/2 page Rivertown ad
			Laketown Family Day full page	Halloween event 1/2 page ad		Twelfth Night 1/2 page		Lundi Gras 1/2 page		Planetarium opening ???	Planetarium opening ???	Planetarium opening ???
	1/2 page Kenner Kalendar	1/2 page Kenner Kalendar	1/2 page Kenner Kalendar	1/2 page Kenner Kalendar	1/2 page Kenner Kalendar	1/2 page Kenner Kalendar	1/2 page Kenner Kalendar	1/2 page Kenner Kalendar	1/2 page Kenner Kalendar	1/2 page Kenner Kalendar	1/2 page Kenner Kalendar	1/2 page Kenner Kalendar
		Kenner Leisure Service Brochure Insert						Kenner Leisure Service Brochure Insert			Kenner Leisure Service Brochure Insert	
Kenner Star Rivertown ad topic	All museums	Children's Castle	Grandparent's month	Halloween Event	Christmas Village	Twilight at 12th night	Twilight at 12th night	Lundi Gras Event	tbd	tbd	tbd	tbd
LTPA		Travel Brochure Catalog (sent to AAA, NTA, ABA travel agents)					Newspaper Broadsheet					
	Web Link Visitor Center distribution	Web Link Visitor Center distribution	Web Link Visitor Center distribution	Web Link Visitor Center distribution	Web Link Visitor Center distribution	Web Link Visitor Center distribution	Web Link Visitor Center distribution	Web Link Visitor Center distribution	Web Link Visitor Center distribution	Web Link Visitor Center distribution	Web Link Visitor Center distribution	Web Link Visitor Center distribution
Misc. Pub.	New Orleans Official Convention & Visitors Bureau ad co-op 1/6 page	JCVB guidebook, full page ad			Arthur Hardy MG Guide full page (Mardi Gras Museum) & 1/3 page (12th night)	New Orleans Magazine ad		Print new Rivertown Brochure 30,000	Launch new Rivertown website	Planetarium opening ???	Planetarium opening ???	Planetarium opening ???
						Celebration in the Oaks program						

Response

Controls Over Contracts - (#6)

- This situation was brought to my attention in 2003. It was corrected. A new contract was signed with Ms. Schneckenburger in 2003.
- I have to agree with this report as to its findings on a new contract and the impact study. However, the amount paid to CSA was approved by the Council each year in the budget. A representative of CSA appeared at each budget hearing from 1996-2003 along with representatives of the Pontchartrain Center. Funding for CSA and the Pontchartrain Center were discussed in an open forum and ultimately approved by the Council.
- Spaces in the Rivertown Square Shopping Center have been rented since 1984. Originally, there were seven spaces rented. After sixteen years there was never an increase in rent. In lieu of a rent increase, we went from 7 units to 6 at the same rent amount. A new lease was never made because it was my intention to move City services out of this building and into the Old Police Complex. We did not revisit a lease arrangement feeling that since our plans were to move, a month to month agreement would be better. I did not want the City to be faced with a long term lease. A month to month agreement allowed the City the flexibility to give only a 30 day notice. Unfortunately, the Police Complex was smaller than originally thought, so we could not move at the time. Although this plan was altered, the building of a new court house was the solution to moving from the Rivertown Complex. A new court house which was funded in last year's Capital Budget would have allowed us to move Clerk of Court out of City Hall. This would have made room for those services located in the Rivertown Complex.

Response

Comparison of Costs

In the area of legal services the auditor compared Kenner with the city of Lake Charles. The report notes that there was no analysis of the number of claims processed or the number of active lawsuits for each city during this period. I believe without this information it is hard to tell if Kenner's payments for legal services were unreasonable under the premises.

There was no comment as to whether or not claims made against the city of Lake Charles were handled and defended by traditional liability insurance coverage. Kenner, for the last twelve years or so, has had a self insurance risk management program. Under Kenner's program, attorneys who are retained to represent and defend the City in liability cases are hired by the attorney's risk managers, but their fees are paid by the City and not an insurance company.

Kenner also has a Mayor's Court presided over by a Magistrate appointed by the Mayor. The Court handles traffic violations, misdemeanor criminal, and code violations. Ansardi, Maxwell & Power provides prosecutors for Mayor's Court and is paid for this service. I do not know if the city of Lake Charles has a similar court.

Your report indicates that Ansardi, Maxwell & Power was paid \$941,779 in 2002. I would question this amount. My information shows that for the year 2002, Ansardi, Maxwell & Power received payments of about \$560,000 from the City of Kenner which included costs as well as fees.

In addition to the above information, the City of Kenner does not have a policy regulating seven councilmembers and their use of the City attorneys' office. It is not uncommon for a Kenner Councilmember to pick up the telephone and request studies and information that requires hours of research.

Response

Accounting Services

The City of Kenner's Finance Department consists principally of account clerks with limited accounting knowledge. Therefore, many complex projects are required to be outsourced.

In comparing the City of Kenner to the City of Lake Charles, it should be noted that the City of Lake Charles is currently implementing GASB Statement No. 34 for the FY 2004, whereas the City of Kenner implemented this Statement in FY 2003. The implementation of GASB Statement No. 34 not only requires that infrastructure be valued and reported, but also significantly changed the form and content of the annual financial report. The implementation of GASB Statement No. 34 "*Basic Financial Statements and Management's Discussion and Analysis for State and Local Governments*" required substantial assistance and added significant time and cost to the audit.

However, one of the most significant differences that makes comparing the City of Kenner's audit services to those of Lake Charles like comparing "apples to oranges" is that the City of Kenner requires its financial statements to be audited on an individual fund basis. Because of previous recordkeeping problems, and isolated instances of employee fraud, an audit on an individual fund basis is deemed necessary and provides additional assurance to the City. An audit on an individual fund basis requires that audit planning materiality be computed for each individual fund. This increases the time and related expenses required for the audit.

Also, the City of Lake Charles reports one debt service fund and one capital projects fund. The City of Kenner maintains and reports three debt service funds and two capital project funds. These funds have maintained significant activity over the past two years. This significant activity required substantial additional audit time and cost. Furthermore, the City of Kenner also has a Firemen's Pension and Relief Fund which requires a separate annual audit. Again, this is like comparing "apples to oranges".

For the year ended June 30, 2002, the City of Kenner advertised in several publications requesting proposals for its audit services contract. Three bids were received and were comparable and competitive bids as to hours and fees. In addition, all three bids were close to what we were paying the prior CPA firm to perform the audit. Therefore, we had four independent bids that were close to the same price. The contract was awarded to a qualified local CPA firm for a one year contract with an option to renew for one year. The City paid \$158,775 each year for these services.

Response

Accounting Services (continued)

The audit fees paid by the City also included additional costs of approximately \$15,000 for responding to three inquiries from the Louisiana Legislative Auditor.

Finally, the auditors provide invaluable assistance to the City in obtaining the Government Finance Officers Association's ("GFOA") "*Certificate of Excellence in Accounting and Financial Reporting*". This certificate assures the users of the City's Comprehensive Annual Financial Report ("CAFR") that it meets the strict accounting and financial reporting requirements of the GFOA.

Response

Council Members Benefits

Council Members should respond to this item.

Response

Subdivision Entrance

Council Members should respond to this item.

Response

Need to Improve Controls over Purchasing and Disbursements - (1-20)

I can only assume that from an accountant point of view, these are good recommendations. Without the ability to speak to the Finance Director or the Purchasing Director, I don't know if the recommendation can be implemented.

Response

Need to Improve Controls over Purchasing and Disbursements - (#18)

Acting Mayor Dominic Weilbaecher should answer this charge. It was obvious to me that the two mailouts mentioned here were not for any public use.

Response

Related Parties

As I have explained in a previous interview, my knowledge of the arrangement between Mrs. Fertitta and her son's company was limited. In 1998, prior to Mrs. Fertitta's employment with the City, we checked with our city attorney and was told that there was no conflict. Unfortunately, we did not know that she had signed as secretary for the corporation and Mrs. Fertitta was not informed that she was in conflict. Mrs. Fertitta admits that unknowingly, this was a mistake and is prepared to state her case to the proper authority if called to do so.

Response

Internal Auditor Needed

I agree with this concept. However, I disagree with having an employee perform this function. I believe an employee cannot be a reliable source of independence.

Response

Computer Equipment

Dismantling the hard drives was a decision made by the ISA. What is missing from the report is a statement by Mr. Morris regarding public records that may be stored on the hard drive. I was told that Mr. Morris was asked whether or not he could be sure that the hard drives would be cleared. Mrs. Fertitta was told that the only way to guarantee that was to dismantle the hard drives. She was told that this method was preferred rather than putting them in surplus to be auctioned off. The reason I am told is that if public records are left on the hard drives, they may be retrieved by someone who may use them for malicious reasons. For example, on some files there may be social security numbers, complaints against neighbors, telephone numbers, addresses and other personal information.

All City related business can be downloaded from the network backup tapes or can be found on a hard copy in the file room on the second floor of the annex building.

Response

Financial Management

This is a function of the Council. Quarterly reports were given to the Council during my administration. We were told by some Council Members that it was too much paperwork. The practice stopped.

Response

Fixed Assets Records

In the last three years of my administration we worked hard to put together a detailed account of all City assets under the Mayor's control. Unfortunately, the administration does not have the power to order the police department to do anything.

Response

Homestead Exemption

I have always felt that the Homestead Exemption is legal and should remain in effect. There is no reason why a city should collect a tax that is not needed. One court has ruled that the Homestead Exemption is legal.