

STATE OF LOUISIANA LEGISLATIVE AUDITOR

**Community Center and Playground
District No. 4 of Ward 1 of Calcasieu Parish
Lake Charles, Louisiana**

April 21, 1999



Investigative Audit

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

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**Community Center and
Playground District No. 4
of Ward 1 of Calcasieu Parish**

April 21, 1999



**Investigative Audit
Office of the Legislative Auditor
State of Louisiana**

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

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April 21, 1999

**BOARD OF COMMISSIONERS
OF THE COMMUNITY CENTER AND
PLAYGROUND DISTRICT NO. 4
OF WARD 1 OF CALCASIEU PARISH**
Lake Charles, Louisiana

Transmitted herewith is our investigative report on the Community Center and Playground District No. 4 of Ward 1 of Calcasieu Parish. Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine the propriety of a certain allegation received by this office.

This report presents our finding and recommendation as well as the response of management for the Community Center and Playground District No. 4 of Ward 1 of Calcasieu Parish. Copies of this report have been delivered to the Honorable Robert Bryant, District Attorney for the Fourteenth Judicial District of Louisiana; the Internal Revenue Service; the Louisiana Department of Revenue; and others as required by state law.

Respectfully submitted,

A handwritten signature in cursive script that reads "Daniel G. Kyle".

Daniel G. Kyle, CPA, CFE
Legislative Auditor

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Executive Summary

Investigative Audit Report Community Center and Playground District No. 4 of Ward 1 of Calcasieu Parish

The following summarizes the finding and recommendation as well as management's response that resulted from this investigation. Detailed information relating to the finding and recommendation may be found at the page number indicated. Management's response may be found at Attachment I.

Internal Revenue Service Form 1099 Not Filed

(Page 1)

Finding:

Mr. Ronnie Frusha, former bookkeeper for the Community Center and Playground District No. 4 of Ward 1 of Calcasieu Parish (District), did not issue Internal Revenue Service (IRS) Form 1099 for amounts paid to himself and other contract laborers. In addition, Mr. Frusha did not record \$7,500 in contract payments to himself in the books of the District.

Recommendation:

We recommend that the Community Center and Playground District No. 4 Ward 1 of Calcasieu Parish comply with IRS regulations and file Form 1099. In addition, we recommend that the District contact the IRS to determine the appropriate method to address this finding. We further recommend that the District Attorney for the Fourteenth Judicial District of Louisiana, the Louisiana Department of Revenue, and the Internal Revenue Service review this information and take appropriate legal action.

Management's Response:

Management for the District stated that the appropriate IRS forms have now been filed. Furthermore, management stated that it is working with the district attorney to decide on the appropriate action.

Background and Methodology

The Community Center and Playground District No. 4 of Ward 1 of Calcasieu Parish (District) was created by the Calcasieu Parish Police Jury, as authorized by Act 82 of 1948. The District owns and operates recreational facilities and engages in activities designed to promote general health and well being of the community's youth.

The Office of the Legislative Auditor received information indicating that the District's bookkeeper did not issue Internal Revenue Service (IRS) Form 1099 to the agency's contract laborers. This investigation was conducted to determine the accuracy of this information.

Our procedures consisted of (1) interviewing employees and officials of the District; (2) interviewing other persons as appropriate; (3) examining selected documents and records of the District; (4) making inquiries and performing tests to the extent we considered necessary to achieve our purpose; and (5) reviewing applicable state and federal laws.

The result of our investigation is the finding and recommendation presented herein.

Finding and Recommendation

INTERNAL REVENUE SERVICE FORM 1099 NOT FILED

Mr. Ronnie Frusha, former bookkeeper for the Community Center and Playground District No. 4 of Ward 1 of Calcasieu Parish (District), did not issue Internal Revenue Service (IRS) Form 1099 for amounts paid to himself and other contract laborers. In addition, Mr. Frusha did not record \$7,500 in contract payments to himself in the books of the District.

For the years 1995 and 1996, Mr. Frusha prepared 1099s for all of the agency's contract laborers that were paid in excess of \$600 except for himself. The 1099s were submitted to the agency's auditor but not issued to the contract laborers or the IRS.

Ms. Connie Thrasher, the current bookkeeper for the District, explained that Mr. Frusha told her that he had prepared the 1099s but did not issue them. Ms. Thrasher further stated that Mr. Frusha told her not to worry about preparing 1099s.

During 1995 and 1996, Mr. Frusha paid himself \$3,000 and \$4,500, respectively, for his bookkeeping services. Mr. Frusha coded these payments as a "scholarship fund" on the checks, the check stubs, and the general ledger entries. Mr. Michael Dore, former District president, stated that Mr. Frusha wrote scholarship fund on the checks for tax purposes because he (Frusha) was going to give the money to his daughter for college.

Mr. Frusha stated that he set up a private scholarship fund with a committee for his daughter's education. Mr. Frusha further stated that he was the only person who contributed to the fund; however, his daughter did not get the scholarship. Mr. Frusha would not provide us with the names of the fund's committee members. When asked about his salary, Mr. Frusha agreed that he had written scholarship on the checks so that he would not have to pay taxes on the income.

Because Mr. Frusha intentionally did not issue IRS Form 1099, he may have violated one or more of the following laws:

- R.S. 14:134, "Malfeasance in Office"
- R.S. 47:1642, "State Income Tax Evasion"
- Title 26, U.S.C., Section 7201, "Tax Evasion"
- Title 26, U.S.C., Section 7203, "Failure to File Return and/or Pay Tax"

We recommend that the Community Center and Playground District No. 4 of Ward 1 of Calcasieu Parish comply with IRS regulations and file Form 1099. In addition, we recommend that the District contact the IRS to determine the appropriate method to address this finding. We further recommend that the District Attorney for the Fourteenth Judicial District of Louisiana, the Louisiana Department of Revenue, and the IRS review this information and take appropriate legal action.

Attachment I

Management's Response

Attachment II
Legal Provisions

Legal Provisions

The following legal citations are referred to in the Finding and Recommendation section of this report:

R.S. 14:134 provides, in part, that malfeasance in office is committed when any public officer or public employee shall (1) intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; (2) intentionally perform any such duty in an unlawful manner; or (3) knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him or to perform any such duty in an unlawful manner.

R.S. 47:1642 provides, in part, that any person who willfully fails to file any return or report to be filed under R.S. Title 47, or who willfully files or causes to be filed, with the collector, any false or fraudulent return, report or statement, or who willfully aids or abets another in the filing with the collector or any false or fraudulent return, or statement, with the intent to defraud the state or evade the payment of any tax, fee, penalty or interest, or any part thereof, shall be subject to criminal penalty for evasion of tax.

Title 26, U.S.C., Section 7201 provides, in part, that any person who willfully attempts in any manner to evade any tax imposed by the Internal Revenue Code or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony.

Title 26, U.S.C., Section 7203 provides, in part, that any person required under the Internal Revenue Code to pay any estimated tax or tax, or required to make a return, keep any records, or supply any information, who willfully fails to pay such estimated tax or tax, make such return, keep such records, or supply such information, shall, in addition to other penalties provided by law, be guilty of a misdemeanor.

