

STATE OF LOUISIANA

Calcasieu Parish Tax Assessor
Lake Charles, Louisiana

February 11, 2004



LEGISLATIVE AUDITOR

DIRECTOR OF FRAUD AND ABUSE AUDIT

Daryl G. Ferguson, CPA, CFE

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February 11, 2004

**THE HONORABLE RICHARD COLE
CALCASIEU PARISH TAX ASSESSOR**

Lake Charles, Louisiana

We have audited certain transactions of the Calcasieu Parish Tax Assessor in accordance with Title 24 of the Louisiana Revised Statutes. Our audit was performed to determine whether services were actually received for payments made to a vendor and whether a portion of the profits generated by these payments was given to the former tax assessor.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required by *Governor Auditing Standards*; therefore, we are not offering an opinion on the Calcasieu Parish Tax Assessor's financial statements or system of internal control nor assurance as to compliance with laws and regulations.

The accompanying report presents our findings and recommendations as well as management's response. Copies of this report have been delivered to the Louisiana Tax Commission, the Honorable Robert Bryant, District Attorney for the Fourteenth Judicial District of Louisiana, and others as required by state law.

Respectfully submitted,

George C. Austin, CPA
First Assistant Legislative Auditor

GD:DD:DGP:J

02/11/04

Executive Summary

Calcasieu Parish Tax Assessor

Our audit revealed that the former Calcasieu Parish Tax Assessor Kenneth Darnowski compiled with a computer services vendor to inflate billings to the assessor's office and divert those overbillings to a company controlled by Mr. Darnowski. From January 7, 1994, through February 11, 2000, Mr. Darnowski personally received \$679,732 from the vendor in this manner.

In addition, from July 1994 through November 2000, Mr. Darnowski made purchases totaling \$4,377 with an assessor office American Express card. The purchases are not supported by records detailing their business purpose and appear to be personal in nature.

The Calcasieu Parish Assessor's Office should:

1. Develop more formal project management standards for large-scale vendor-developed systems. This may be accomplished by:
 - Requiring the vendor to provide detailed budgets and timetables for the work proposed.
 - Requiring the vendor to supply detailed invoices that specify each task performed, the hours required, and the amount charged for that task.
 - Requiring the vendor to supply written explanations for all additional work not specifically detailed in the contract.
 - Designating an assessor office employee as liaison to the vendor with responsibility of reviewing all invoices and signing off on all payments to the vendor.
2. Ensure that all disbursements are supported by original, detailed, and valid invoices and receipts.

Management's Response (See Attachment A.)

The current Calcasieu Parish Assessor stated that he believes the findings presented in the report are accurate and correct. He stated further that as a result of the report his office has started bidding contracts for computer services, requiring detailed invoices, and instituting security checks so that past problems will not take place again.

Background and Methodology

Article VII, Section 24 of the Louisiana Constitution provides that the voters of each parish elect an assessor for a four-year term that is responsible for assessing all real and movable property in the parish. Completed assessments are submitted to the parish governing council and the Louisiana Tax Commission.

Kenneth Durstzack was elected Calcasieu Parish Tax Assessor in 1987. After being re-elected to serve three additional terms, he resigned on April 23, 2002. On September 16, 2002, Mr. Durstzack was convicted on federal tax evasion charges and sentenced in federal court to serve 33 months imprisonment and monetary penalties of \$193,613. The tax evasion charge involved Mr. Durstzack's failure to pay federal taxes on payments received from a vendor of computer services to the assessor's office.

In November 2002, Richard Cole was elected Calcasieu Parish Tax Assessor.

The legislative auditor received information indicating that the payments made by the computer services vendor to the former tax assessor were improper. This audit was performed to determine whether services were actually received, for payments made to the vendor and whether a portion of the profits generated by these payments was given to the former tax assessor. The procedure performed during this audit consisted of (1) interviewing employees of the tax assessor's office; (2) interviewing other persons as appropriate; (3) examining selected documents and records of the tax assessor's office and vendor; and (4) reviewing applicable state and federal laws and regulations.

Findings

The former tax assessor diverted public funds through a vendor for his personal use.

The former Calcasieu Parish Tax Assessor Kenneth Darnestadt conspired with a computer services vendor to inflate billings to the assessor's office and divert these overbillings to a company controlled by Mr. Darnestadt. From January 7, 1994, through February 11, 2000, Mr. Darnestadt personally received \$639,752 from the vendor in this manner.

Background

In April 1988, the Calcasieu Assessor's Office entered into a service work contract with Computer Data Services (CDS) under which CDS was to provide software for reappraisal, mapping, and data collection services to the assessor's office. This contract was continued under Kenneth Darnestadt who assumed office as Calcasieu Parish Tax Assessor in January 1989.

Under the contract, software and related materials were to be billed at \$2,500 per month or \$30,000 per year. Updates and (the development of) additional software were to be billed at \$175 per hour. CDS also charged \$15 an hour for all data input and research work.



From January 1991 through July 2002, CDS billed the assessor's office a total of \$1,692,628. Of this amount, only \$245,000 or 14% consisted of the monthly \$2,500 charges for reappraisal, mapping, and data collection software. The balance, \$1,447,628, was charges for updates and (the development of) additional software and was invoiced separately.

The assessor's office does not have documentation supporting CDS's monthly \$2,500 charge to the assessor's office. We consequently cannot determine the extent of work performed on the software and related materials provided for this fee.

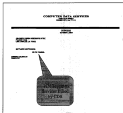
Mr. Darnstadt stated that around February or March 2003, when the IRS approached him about his taxes, he told Mr. Teeters they could no longer inflate the invoices. Except for one additional invoice in January 2001, CDS's hourly billings to the assessor's office and CDS's payments to Service Tech both stopped in February 2003. The monthly \$2,500 billings, however, continued through July 2003.

Mr. Darnstadt stated that he performed services for part of the \$636,732 he received from CDS through Service Tech. He estimated that he earned maybe 10%-25% of this money through assistance he provided to Mr. Teeters. He described this work as consulting, though there is no documentation to support this claim.

According to Mr. Darnstadt, he spent the money he received from Service Tech on entertainment. He would travel, including some overseas trips, and eat out often. He stated, "As I got it, I would spend it. It's amazing." Mr. Darnstadt stated that his actions were wrong and he is ashamed of them.

Services Not Performed by CDS

According to current Calcasieu Tax Assessor Richard Cole, he was a Deputy Assessor in charge of the mapping system under Mr. Darnstadt. He stated that Mr. Teeters billed the assessor's office for PIN (Parcel Identification Number) tagging work that he and other office employees performed. He specifically stated that Mr. Teeters did not perform this work. However, a former Calcasieu Tax Assessor Preston Miller did work part-time performing PIN tagging work at the assessor's office. It was his understanding that Mr. Miller was paid by Mr. Teeters for this work. Mr. Miller is deceased. We attempted to speak with Mr. Teeters concerning this matter; however, he refused to speak with us.



PIN tagging involves researching assessor office records to obtain the lot and block number for the property and inputting this number into a computer database. It is essentially research and data entry work and involves no programming. Had CDS actually performed this work, it should have been billed as research and data entry work at \$13 an hour per the contract between CDS and the assessor's office.

A review of the hourly-billed CDS invoices shows that between April 1994 and December 1995 there were 41 separate invoices that included PIN tagging services. Of those 41 invoices, 16 of them included only PIN tagging services. These 16 invoices ranged

from \$1,150 to \$9,475. The work involved with these 16 invoices was performed between June 1994 and September 1995. The total amount billed for the 16 invoices was \$85,230. The \$85,230 does not include the billing for the other 25 invoices with PIN tagging services. The lack of specificity on these invoices makes it impossible to separate PIN tagging services from other services described on the invoices.

According to Mr. Cole, Mr. Miller performed about 30% of the PIN tagging work; he and other office employees performed the other 70% of the PIN tagging work. The \$85,230 that CDS billed the assessor's office for PIN tagging work from June 1994 through September 1995 amounts to 5,682 hours if billed at the \$15 per hour research and data entry rate offered by CDS. Broken down by days, Mr. Miller would have worked approximately 12 hours per day, without a day off, for 474 days. It appears highly implausible that Mr. Miller worked these hours. Moreover, it should be noted that Mr. Cole characterized Mr. Miller's work as part-time, and the hours per day calculation does not include the other 25 invoices because the cost of PIN tagging services could not be separated from other services on the invoices.

Ultimap was the first mapping software used by the office. During 1993 or 1994, the office acquired Arc Info mapping software. According to Mr. Cole, employees of the Calcasieu Parish Police Jury transferred the data from the old Ultimap system to the new Arc Info system. The computer that had held the Ultimap files was disposed of at this time. However, a review of CDS invoices shows two invoices to the Calcasieu Assessor's Office for merging the Ultimap files and the Arc Info files. These two invoices totaled \$12,720 and were billed in June 1998.

CDS Services Appear Unnecessary

According to Mr. Cole, the office's mapping system was essentially complete approximately five to six years ago. Nevertheless, CDS was paid to install another software program called Mapitude on its system at about this time.

Mr. Cole stated that Mr. Trotter promoted Mapitude and encouraged the office staff to use it. Mr. Cole stated that to his knowledge neither he nor any of the office staff ever used the Mapitude system. Moreover, the office computer on which the Mapitude software was installed crashed five to six years ago, and the computer was never repaired (replaced). The office currently maintains its records on the Arc Info system.

From June 1997 through February 2004, CDS was paid \$116,110 through 16 invoices to the Calcasieu Assessor's Office that included Mapitude services. However, because of lack of detail on the invoices we were unable to determine how much of this amount was for work performed on the Mapitude system.

The former tax assessor made purchases that have no documented business purpose and appear personal in nature.

Between July 1994 and November 2003, Mr. Darneault made purchases totaling \$4,377 with an assessor-office American Express card. The purchases are not supported by records detailing their business purpose and appear to be personal in nature.

The purchases included two roundtrip plane tickets to Madrid, Spain for \$1,462 (the tickets were in the names of Mr. Darneault and his wife, Donna Darneault), a trip to Florida with hotel stays and car rental at Key West and Ft. Lauderdale for \$1,408, and hotel and meal charges at Yvonne, and Grand Life, Louisiana, totaling \$507. We could find no evidence for the business purpose for these trips.

DATE	AMOUNT	DESCRIPTION	STATUS
07/15/94	1462.00	FLIGHTS	APPROVED
07/15/94	1408.00	HOTEL & CAR RENTAL	APPROVED
07/15/94	507.00	HOTEL & MEAL CHARGES	APPROVED
TOTAL	3377.00		

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TOTAL	3377.00		

Plane Tickets to Spain Purchased by Kenneth Darneault and Paid for by the Calcasieu Parish Assessor's Office

In addition, there were questionable purchases from the following businesses: Boat Stuff in Houston, Texas; Academy Sporting Goods in Bossier, Texas; Bass Pro Shop in Springfield, Missouri; and Riverside Trophies in Palm Beach, Florida. The total amount of these purchases was \$906. We could not determine the items purchased because no invoices or sales receipts supported the payments.

When we asked if he used the American Express card for personal purchases, Mr. Darneault stated, "I was never involved in that or anything to that effect."

Mr. Darneault resigned as the Calcasieu Parish Tax Assessor on April 22, 2003. He was subsequently convicted on federal tax evasion charges and is currently incarcerated in federal prison.

This report has been provided to the District Attorney for the Fourteenth Judicial District of Louisiana. The actual determination as to whether an individual is subject to formal charge is at the discretion of the district attorney.¹

R.S. 4021B2 provides, in part, that no public officer shall collect or accept, directly or indirectly, anything of economic value in a gift or gratuity from any person or employee of any person who has or is seeking to obtain contractual or other business or financial relationships with the public sector agency.

R.S. 4041 provides, in part, that there is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other or the misappropriation or taking, or by means of fraudulent conduct, practices, or representations.

R.S. 4043A provides, in part, that public bribery is the giving or offering of any gift, directly or indirectly, consisting of apparent present or prospective value to any public officer, public employee, or person in a position of public authority with the intent to influence his conduct in relation to his position, employment, or duty. This includes, but is not limited to, the offer to accept, direct or indirect, resulting of apparent present or prospective value under such circumstances, by any public officer, public employee, or person in a position of public authority that the recipient public officer.

R.S. 4043B provides, in part, that filing false public records is the filing or depositing the record in any public office or with any public official, or the transmitting or required to file, register, or vote, with knowledge of its falsity, any illegal document, any unlawfully altered document, or any document containing a false statement or false representation of a material fact.

R.S. 4043C provides, in part, that reluctance to 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) intentionally prevent any other public officer or public employee from his authority, or intentionally refuse or fail to perform any duty lawfully required of him to perform any such duty in an unlawful manner.

R.S. 4043D provides, in part, that public officer fraud is committed when any public officer or employee shall use his power or position as such officer or employee to secure any expenditure of public funds or interest, or to any person to which he is not entitled, or to the disposition of which he is not officer, administrator, or director.

R.S. 4043E provides, in part, that misuse of authority is the acquisition or facilitation of a financial transaction involving proceeds known to be derived from a crime or violation, when the transaction is designed to which or in part to conceal or dispose the source, location, nature, ownership, or control of proceeds known to be derived from such violation in order to circumvent reporting requirements under state or federal law. It is also the receiving or acquisition of proceeds derived from any violation of criminal activity, or knowledge or intentional engaging in any transaction that the proceeds derive from such proceeds from any such violation.

Recommendations

The Calcasieu Parish Assessor's Office should:

1. Develop more formal project management standards for large-scale vendor-developed systems. This may be accomplished by:
 - Requiring the vendor to provide detailed budgets and timetables for the work proposed.
 - Requiring the vendor to supply detailed invoices that specify each task performed, the hours required, and the amount charged for that task.
 - Requiring the vendor to supply written explanations for all additional work not specifically detailed in the contract.
 - Designating an assessor office employee as liaison to the vendor with responsibility of reviewing all invoices and signing off on all payments to the vendor.

2. Ensure that all disbursements are supported by original, detailed, and valid invoices and receipts.

Attachment I
Management's Response



RICHARD J. COLE, JR.

Assessor for Calcasieu Parish

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January 28, 2004

Office of the Legislative Auditor
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Baton Rouge, Louisiana 70804-9502

Mr. Graver Austin,

I have received the preliminary draft on the fiscal audit of the Calcasieu Parish Assessor's Office. I have read the entire findings that were presented by Mr. Gary Duty of your office. I feel that the findings that were presented in the preliminary draft were accurate and correct.

As a result of the audit findings, the Calcasieu Parish Assessor's Office has made several accounting changes. We have started bidding out contracts for computer services with detailed invoicing. We are only paying bills with detailed and timely revisions. We have also installed security checks where the past problems will not happen again.

If the Calcasieu Parish Assessor's Office is in need of any further services, feel free to contact us.

Sincerely,

Richard J. Cole, Jr.
Calcasieu Parish Assessor