

## Audubon Commission & Audubon Nature Institute Use of Funds Audit

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### Purpose of This Report

The Office of Inspector General (OIG) conducted a performance audit of the Audubon Nature Institute's (Institute) use of funds for the period of January 1, 2012 through December 31, 2014. The objectives of the audit were to determine if the Institute's policies governing expenditures complied with best practices and provided adequate controls to ensure all expenses were business-related and allowed by law and if the Institute complied with its policies, and applicable laws and/or best practices pertaining to expenditures of Audubon Commission (Commission) funds.

### What the OIG Found

The Institute entered into two verbal contracts with two lobbying firms for services the Institute described as "lobbying." The Institute paid \$416,261 for these services without a competitive bid process or a written contract. The Institute paid these invoices without sufficient information, such as dates, hours, and/or the nature of services provided. Because the Institute did not competitively purchase these services, no request for proposal/quotation exists describing services to be rendered. No written contract with either firm exists to adequately describe the services provided. In an attempt to describe the services rendered, the Institute provided the OIG various emails between the Institute and the lobbying firms which indicated unconstitutional lobbying. Because these emails between the lobbyists and the Institute, along with generic invoices were insufficient to support over \$416,000 in expenditures, the Institute may have violated Louisiana Constitution article VII, section 14(A) because it could not establish the services received were at least equivalent value in exchange for the expenditure or transfer of the Commission's public funds.

The Institute may have also violated Louisiana Constitution article XI, section 4 by using Commission funds to pay for those lobbying services. The Louisiana Attorney General has consistently opined that public resources cannot be used to advocate, urge, lobby or provide public relations to promote a particular position. The Louisiana Attorney General stated:

...the line between legality and illegality is that between advocacy of only one side of the public issue through use of public funds and the neutral statement of facts pertinent to all sides of an issue and presented without bias. "Public relations" includes, but is not limited to, lobbying, which is advocacy directed toward government rather than the public at large....<sup>1,2</sup> (Emphasis in original).

The Institute also requested one of the lobbyists to provide a letter, dated August 26, 2020, to describe the services rendered more than five years earlier. In that letter, the contractor acknowledged, "As a contract government affairs representative for the Audubon Nature Institute I **advocated for Audubon with the Legislative and Executive Branches** of the Federal government..." (Emphasis added). The Institute failed to acknowledge the "advocacy" in their response to our report.

Because the Institute lacked the sufficient documentation, management suggested the OIG does not have support to conclude the Institute "**may have** violated the Constitution" as it relates to these lobbying services. However, the evidence, as documented throughout our report, provides a reasonable basis for the conclusion the Institute "**may have** violated the Constitution."

<sup>1</sup> La. Attorney General Opinion No. 90-126A.

<sup>2</sup> La. R.S. §24:51(4) and (5)(a) describe lobbying as "influencing legislation." These definitions illustrate that "lobbying" encompasses unconstitutional services because those services are not just disseminating neutral facts.

### **What the OIG Found (continued)**

The OIG identified verbal contracts that authorized the payment of \$579,570 for commissions the Institute paid employees in addition to their regular salaries. This arrangement may have violated the State of Louisiana Code of Ethics.

The OIG also found the Commission failed to exercise authority over its bank accounts because all signatories on the Commission's bank accounts were Institute officers or employees. The Commission also failed to approve the Institute's annual operating budget as required by the Contract between the Commission and the Institute and violated its record retention policy and Louisiana Public Records law.

Despite the findings noted above, the Institute's controls over the initiation, approval, and execution of the purchasing process were designed properly and implemented and operated effectively.

### **What the OIG Recommended**

#### **To resolve these findings, the OIG recommended the Institute:**

- Revise its policies to recognize the public nature of Commission funds, including unconstitutional spending pursuant to La. Const. art. VII, sect. 14(A) and La. Const. art. XI, section 4.
- Revise its policy to require formal written contracts.
- Develop a policy to prohibit revenue share agreements and pay each employee a competitive salary.
- Communicate revised policies to all managers and employees to ensure policies are understood and implemented.
- Require all contractors and vendors to provide sufficient detail as to the services rendered on their invoices prior to authorizing payment.
- Obtain training on the Code of Governmental Ethics and record retention policies.

#### **To resolve these findings, the OIG recommended the Commission:**

- Add at least one Commission member as an authorized signatory to all bank accounts containing Commission funds.
- Approve the Institute's budget each year and perform regular financial performance reviews to determine if amendments to the budget are required.
- Clarify the language in the Contract between the Commission and the Institute to the extent it contains contradictory language.

### **Audubon Commission and Audubon Nature Institute Comments**

The Commission and the Institute contended that the Institute reviewed the OIG's findings and observations and has taken them into consideration. The Institute contended that "while Audubon disagrees with some conclusions reached by the OIG and notes that several of the findings have been resolved, we are always open to feedback for improvement."

The Institute started the process of evaluating a revised means of segregating Commission funds from those funds generated by the Institute. The Institute also noted that multiple findings were resolved.