



OFFICE OF AUDITOR OF STATE
STATE OF IOWA

Rob Sand
Auditor of State

State Capitol Building
Des Moines, Iowa 50319-0006
Telephone (515) 281-5834

NEWS RELEASE

Contact: Pam Bormann
515/281-5834

FOR RELEASE

September 26, 2024

Auditor of State Rob Sand today released an agreed-upon procedures report on the City of Farley, Iowa, for the period July 1, 2021 through June 30, 2022. The agreed-upon procedures engagement was performed pursuant to Chapter 11.6 of the Code of Iowa.

Sand reported twenty-two findings related to the receipt and disbursement of taxpayer funds. They are found on pages 9 through 18 of this report. The findings address issues such as a lack of segregation of duties, the lack of bank and utility reconciliations, disbursements exceeding budgeted amounts and inaccuracies in financial reporting. Sand provided the City with recommendations to address each of the findings.

The City Council has a fiduciary responsibility to provide oversight of the City's operations and financial transactions. Oversight is typically defined as the "watchful and responsible care" a governing body exercises in its fiduciary capacity.

A copy of the agreed-upon procedures report is available for review on the Auditor of State's website at [Audit Reports – Auditor of State](#).

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CITY OF FARLEY
AUDITOR OF STATE'S INDEPENDENT REPORT
ON APPLYING AGREED-UPON PROCEDURES
FOR THE PERIOD
JULY 1, 2021 THROUGH JUNE 30, 2022

City of Farley



OFFICE OF AUDITOR OF STATE
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State Capitol Building
Des Moines, Iowa 50319-0006
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Rob Sand
Auditor of State

July 30, 2024

Officials of the City of Farley
Farley, Iowa

Dear Honorable Mayor and Members of the City Council:

I am pleased to submit to you the agreed-upon procedures report for the City of Farley, Iowa, for the period July 1, 2021 through June 30, 2022. The agreed-upon procedures engagement was performed pursuant to Chapter 11.6 of the Code of Iowa and in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards for attestation engagements contained in Government Auditing Standards.

I appreciate the cooperation and courtesy extended by the officials and employees of the City of Farley throughout the agreed-upon procedures engagement. If I or this office can be of any further assistance, please contact me or my staff at 515-281-5834.

Sincerely,

A handwritten signature in black ink that reads "Rob Sand". The signature is stylized and cursive.

Rob Sand
Auditor of State

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City of Farley

Officials

(Before January 2022)

<u>Name</u>	<u>Title</u>	<u>Term Expires</u>
Jeffery Simon	Mayor	Jan 2022
Corey Birkel	Council Member	Jan 2022
Justin Philipp	Council Member	Jan 2022
Marty Benda	Council Member	Jan 2024
Joe Erion	Council Member	Jan 2024
Jay Hefel	Council Member	Jan 2024
Lory Young	City Administrator	Indefinite
Lisa Baych	City Clerk	(Resigned Nov 2021)
Lauren Manternach	City Clerk	Indefinite
Ted Huinker	Attorney	Dec 2021

(After January 2022)

<u>Name</u>	<u>Title</u>	<u>Term Expires</u>
Jay Hefel	Mayor	Jan 2026
Jack O'Brien (Appointed Jan 2022)	Council Member	Nov 2023
Marty Benda	Council Member	Jan 2024
Joe Erion	Council Member	Jan 2024
Corey Birkel	Council Member	Jan 2026
Justin Philipp	Council Member	Jan 2026
Lory Young	City Administrator	Indefinite
Lauren Manternach	City Clerk	Indefinite
Kelly Ludwig	Deputy City Clerk	Indefinite
Douglas Herman	Attorney	Indefinite

City of Farley



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Rob Sand
Auditor of State

Auditor of State's Independent Report on Applying Agreed-Upon Procedures

To the Honorable Mayor and Members of the City Council:

We performed the procedures below, which were established at Iowa Code Chapter 11.6, to provide oversight of Iowa cities. Accordingly, we have applied certain procedures to selected accounting records and related information of the City of Farley for the period July 1, 2021 through June 30, 2022, including procedures related to the City's compliance with certain Code of Iowa requirements identified below. The City of Farley's management, which agreed to the performance of the procedures performed, is responsible for compliance with these requirements and for the City's records.

This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards for attestation engagements contained in Government Auditing Standards, issued by the Comptroller General of the United States. The City of Farley's management has agreed to and acknowledged that the procedures performed are appropriate to meet the intended purpose to report, in accordance with Chapter 11.6 of the Code of Iowa, recommendations pertaining to selected accounting records and related information of the City including the City's compliance with certain Code of Iowa requirements. This report may not be suitable for any other purpose. The procedures performed may not address all the items of interest to a user of this report and may not meet the needs of all users of this report and, as such, users are responsible for determining whether the procedures performed are appropriate for their purposes.

The procedures we performed are summarized as follows:

1. We observed selected City Council meeting minutes for compliance with Chapters 21, 372.13(6) and 380 of the Code of Iowa.
2. We obtained an understanding of the City's internal controls to determine if proper control procedures are in place and incompatible duties, from a control standpoint, are not performed by the same employee.
3. We observed surety bond coverage for compliance with Chapter 64 of the Code of Iowa.
4. We obtained and observed the City Clerk's financial reports and selected bank reconciliations to determine whether the bank balances properly reconciled to the general ledger account balances, journal entries and monthly financial reports provided to the City Council.
5. We scanned City funds for consistency with the City Finance Committee's recommended Uniform Chart of Accounts (COA) and to determine required funds and fund balances are properly maintained and accurately accounted for.
6. We observed the City's fiscal year 2022 Annual Financial Report to determine whether it was completed and accurately reflects the City's financial information.
7. We scanned investments to determine compliance with Chapter 12B of the Code of Iowa.
8. We scanned depository resolutions, the City's investment policy and reporting of unclaimed property to the State of Iowa to determine compliance with Chapters 12C.2, 12B.10B and 556.1(12) of the Code of Iowa.

9. We scanned debt, including general obligation and revenue bonds/notes, and related transactions for proper authorization and compliance with Chapters 75, 384 and 403.9 of the Code of Iowa and to determine whether the debt and related proceeds and repayments were properly accounted for.
10. We scanned selected tax increment financing (TIF) transactions, including receipts, disbursements and transfers, for compliance and accurate accounting, including compliance with the TIF reporting requirements of Chapter 384.22 of the Code of Iowa.
11. We observed the City's TIF debt certification forms filed with the County Auditor, including requests for collection of reduced TIF amounts and to decertify certain TIF obligations, as applicable, for proper support and compliance with Chapter 403.19(6) of the Code of Iowa.
12. We traced selected receipts for accurate accounting and consistency with the recommended COA.
13. The City had no voter approved levies.
14. We traced selected disbursements to proper approval, adequate supporting documentation, accurate accounting and consistency with the recommended COA and compliance with the public purpose criteria established by Article III, Section 31 of the Constitution of the State of Iowa.
15. We traced transfers between funds to proper authorization and accurate accounting and to determine whether transfers were proper.
16. We traced selected payroll and related transactions to proper authorization and accurate accounting and determined whether payroll was proper.
17. We observed the annual certified budget for proper authorization, certification and timely amendment.

Based on the performance of the procedures described above, we identified various findings and recommendations for the City. Our findings and recommendations are described in the Detailed Findings and Recommendations section of this report. Unless reported in the Detailed Findings and Recommendations, no exceptions were noted during the performance of the specific procedures listed above.

We were engaged by the City of Farley's management to perform this agreed-upon procedures engagement and conducted our engagement in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards for attestation engagements contained in Government Auditing Standards, issued by the Comptroller General of the United States. We were not engaged to and did not conduct an examination or review engagement, the objective of which would be the expression of an opinion or conclusion, respectively, on specific accounting records and related information of the City, including compliance with specific Code of Iowa requirements. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

We are required to be independent of the City of Farley and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements related to our agreed-upon procedures engagement.

The purpose of this report is to report, in accordance with Chapter 11.6 of the Code of Iowa, certain agreed-upon procedures and the resulting findings and recommendations pertaining to selected accounting records and related information of the City, including the City's compliance with certain Code of Iowa requirements. This report is not suitable for any other purpose.

We would like to acknowledge the many courtesies and assistance extended to us by personnel of the City of Farley during the course of our agreed-upon procedures engagement. Should you have any questions concerning any of the above matters, we shall be pleased to discuss them with you at your convenience.


Pam Bormann, CPA
Director

July 30, 2024

Detailed Findings and Recommendations

City of Farley

Detailed Findings and Recommendations

For the period July 1, 2021 through June 30, 2022

(A) Segregation of Duties – Management is responsible for establishing and maintaining internal control. A good system of internal control provides for adequate segregation of duties so no one individual handles a transaction from its inception to completion. In order to maintain proper internal control, duties should be segregated so the authorization, custody and recording of transactions are not under the control of the same employee. This segregation of duties helps prevent losses from employee error or dishonesty and maximizes the accuracy of the City's financial statements. Generally, one individual has control over each of the following areas for the City:

- (1) Accounting system – performing all general accounting functions, including journal entries, and having custody of assets, and controlling all data input and output.
- (2) Cash – handling, reconciling and recording.
- (3) Investments – recordkeeping, investing and reconciling earnings.
- (4) Receipts – opening mail, collecting, depositing, recording, reconciling and posting.
- (5) Utilities – billing, collecting, depositing, recording, reconciling, posting, entering utility rates into the system and maintaining detailed accounts receivable records.
- (6) Long-term debt – recordkeeping, compliance and debt payment processing.
- (7) Journal entries – preparing and recording.
- (8) Disbursements – purchasing, invoice processing, check writing, mailing, reconciling and recording.
- (9) Payroll – recordkeeping, preparing, distributing and entering pay rates into the system.

Recommendation – We realize segregation of duties is difficult with a limited number of employees. However, the City should review its control procedures to obtain the maximum internal control possible under the circumstances utilizing currently available staff, including elected officials. Independent reviews of reconciliations should be documented by the signature or initials of the reviewer and the date of the review.

(B) Bank Reconciliations – The cash and investment balances in the City's general ledger were not reconciled to bank and investment account balances throughout the year. A bank reconciliation for June 30, 2022 was attempted by the auditor, however the general ledger exceeded the bank balance significantly. Additional procedures were performed which noted when the park board bank account was closed in February 2022, an entry was made in the general ledger to the General Fund to record the activity, but the Park Board Fund was not reduced, thereby, double counting the activity. In addition, the City's bank cash report as of June 30, 2022 identified a variance of \$20,050 between the City's bank totals and the general ledger account totals again likely due to the incorrect reporting of the closure of the park board account. After accounting for the Park Board Fund adjustment, the variance between the general ledger and bank was considered immaterial.

Recommendation – The City should take immediate steps to investigate and resolve the variance between the bank and book balances and should establish procedures to ensure bank and investment account balances are reconciled to the general ledger monthly and variances, if any, are reviewed and resolved timely. An independent person should review the reconciliations and document the review by signing or initialing and dating the monthly reconciliations.

City of Farley

Detailed Findings and Recommendations

For the period July 1, 2021 through June 30, 2022

- (C) Financial Condition – The Capital Projects Fund had a deficit balance of \$76,931 at June 30, 2022.

Recommendation – The City should investigate alternatives to eliminate this deficit in order to return the fund to a sound financial position.

- (D) Deposits and Investments – For one certificate of deposit observed, the interest rate was not in accordance with rates established by State Rate Setting Committee.

Recommendation – The City should ensure interest rates for certificates of deposit are in accordance with rates established by State Rate Setting Committee.

- (E) Reconciliation of Utility Billings, Collections and Delinquent Accounts – Utility billings, collections and delinquent accounts were not reconciled throughout the year and a delinquent account listing was not prepared monthly.

Recommendation – A listing of delinquent accounts should be prepared monthly. Procedures should be established to reconcile utility billings, collections and delinquent accounts for each billing period. The City's utility system can generate a reconciliation report. This report should be generated monthly and the amounts in the report verified to supporting documentation. Variances, if any, should be investigated and resolved timely. The City Council or other independent person designated by the City Council should review the reconciliations and monitor delinquent accounts. The review should be documented by the signature or initials of the reviewer and the date of the review.

- (F) Monthly City Clerk's Report – A monthly City Clerk's report which includes receipts, disbursements, transfers, balances for each fund and a comparison of total disbursements to the certified budget by function is not presented to the City Council.

Recommendation – The City should prepare a monthly City Clerk's report which includes receipts, disbursements, transfers and balances for each fund and comparisons of total disbursements by function to the certified budget and present the report to the City Council.

- (G) Disbursements – Two of thirty transactions observed were coded to an incorrect disbursement function.

Recommendation – The City should establish procedures to ensure disbursements are coded to the correct disbursement function in accordance with the Uniform Chart of Accounts for Iowa City Governments approved by the City Finance Committee.

- (H) City Council Meeting Minutes – Chapter 372.13(6) of the Code of Iowa requires minutes of all City Council proceedings be published within 15 days of the meeting. Minutes for three meetings observed were not published within 15 days.

Recommendation – The City should comply with the Code of Iowa and publish City Council minutes within 15 days of the meeting, as required.

City of Farley

Detailed Findings and Recommendations

For the period July 1, 2021 through June 30, 2022

- (I) Certified Budget – Disbursements during the year ended June 30, 2022 exceeded the amounts budgeted in the culture and recreation, capital projects and business type activities functions. Chapter 384.20 of the Code of Iowa states, in part, “Public monies may not be expended or encumbered except under an annual or continuing appropriation.”

Recommendation – The budget should have been amended in accordance with Chapter 384.18 of the Code of Iowa before disbursements were allowed to exceed the budget.

- (J) Questionable Disbursements – In accordance with Article III, Section 31 of the Iowa Constitution and an Attorney General’s opinion dated April 25, 1979, public funds may only be spent for public benefit. A certain disbursement was observed which we believe may not meet the requirements of public purpose as defined in the Attorney General’s opinion since the public benefits to be derived have not been clearly documented. The disbursement was paid to Kim’s Kreations for funeral flowers of \$55.

According to the opinion, it is possible for certain disbursements to meet the test of serving a public purpose under certain circumstances, although such items will certainly be subject to a deserved close scrutiny. The line to be drawn between a proper and an improper purpose is very thin.

Recommendation – The City Council should determine and document the public purpose served by these types of disbursements prior to authorizing any further payments. If this practice is continued, the City should establish written policies and procedures, including the requirements for proper public purpose documentation.

- (K) Debt Service Fund – During the year, the City paid \$5,173 of servicing fee payments for water and sewer revenue bonds from the Debt Service Fund rather than the appropriate Enterprise Fund.

Recommendation – The City should make a corrective transfer from the Enterprise, Water and Sewer Funds to the Debt Service Fund to reimburse for the servicing fee payments made from the Debt Service Fund.

- (L) Tax Increment Financing – Chapter 403.19 of the Code of Iowa provides a municipality shall certify indebtedness to the County Auditor. Such certification makes it a duty of the County Auditor to provide for the division of property tax to repay the certified indebtedness. Chapter 403.19 of the Code of Iowa does not allow a municipality to set aside property tax divided for tax increment purposes for current or future urban renewal projects. Indebtedness incurred is to be certified to the County Auditor and then the divided property tax is to be used to pay the principal of and interest on the certified indebtedness. In addition, Chapter 403.19(6)(b) of the Code of Iowa requires the City to certify the amount of reductions resulting from the reduction of debt or any other reason to the County Auditor.

1. Based on the observation of the County Auditor’s “Urban Renewal Area TIF indebtedness/Increment Tax Revenue Reconciliation” prepared December 2021 the City certified the entire balance of rebate agreements as TIF debt. These agreements all include annual appropriation clauses and, accordingly, only the amounts appropriated to be paid in the coming year represent debt which can be certified. As of June 30, 2022, \$2,749,000 of debt has been certified when it should not be.

City of Farley

Detailed Findings and Recommendations

For the period July 1, 2021 through June 30, 2022

2. The City entered into various development agreements which require the City to make annual payments to the developer during the term of the agreement up to a maximum dollar amount. These agreements also allow for the payment of legal and administrative costs; however, these costs are to be withheld from the initial payments to the developer. During our observation of the December 1, 2021 TIF indebtedness certification to the County Auditor, the City certified administrative costs for nine development agreements for which the initial rebate payments (from which the legal and administrative costs were to be withheld) had previously been certified, resulting in an overstatement of certified debt totaling \$42,000.

Recommendation – The City should decertify the \$2,749,000 of rebate agreements which have not yet been appropriated. The agreements may be certified as TIF debt annually, but only in the amounts appropriated in accordance with the agreements. The City should also decertify \$42,000 of legal and administrative costs which are required to be withheld from the initial developer payments.

(M) Annual Urban Renewal Report – The amounts reported on the Levy Authority Summary in the Annual Urban Renewal Report (AURR) for the fiscal year ended June 30, 2021 included the following:

1. The amount reported as TIF debt outstanding was understated in total by \$666,552. Certain outstanding obligation balances were understated, and certain outstanding obligation balances were overstated.
2. Ending restricted cash balance for LMI was not supported by City records.
3. TIF disbursements were overstated by \$18,248.
4. TIF revenues were understated by \$107.
5. The beginning cash balance for the TIF Special Revenue Fund was overstated by \$18,355.

In addition, the AURR was not certified to the Iowa Department of Management on or before December 1st as required by Chapter 384.22 of the Code of Iowa.

Recommendation – The City should ensure the amounts reported on the AURR agree with the City's records and the AURR is submitted in a timely manner.

(N) Annual Financial Report – Chapter 384.22 of the Code of Iowa required the City's Annual Financial Report (AFR) contain a "summary for the preceding fiscal year of all collections and receipts, all accounts due the city, and all expenditures..." The following were noted regarding the City's 2022 AFR:

- The AFR was not submitted by December 1st as required by Chapter 384.22 of the Code of Iowa.
- Total governmental disbursements were overstated by \$319,198 and total proprietary disbursements were understated by \$317,361, resulting in a net overstatement of total disbursements of \$1,832.
- The governmental ending fund balances were understated by \$340,939 and proprietary ending fund balances were overstated by \$317,367, resulting in a net understatement of \$23,572.

City of Farley

Detailed Findings and Recommendations

For the period July 1, 2021 through June 30, 2022

Recommendation – The City should establish procedures to ensure the amounts reported in the AFR are properly supported by the City's records. In addition, the City should submit the AFR by December 1st, as required by Chapter 384.22 of the Code of Iowa. An independent person should review the AFR for accuracy and the review should be documented by signature or initials of the reviewer and the date of the review.

- (O) Payroll – For three of five employees observed, timesheets did not include evidence of supervisory review.

Recommendation – Procedures should be established to ensure timesheets are reviewed and approved by supervisory personnel prior to preparation of payroll. Supervisory review and approval should be documented by the supervisor's signature or initials and the date approved.

- (P) Petty Cash Policy – The City utilizes a petty cash fund; however, the City does not have a policy for the petty cash fund specifying proper usage, allowable disbursements, approvals and maximum dollar amount to be maintained in the petty cash fund.

Recommendation – The City should establish a petty cash fund policy which includes proper usage, allowable disbursements, approvals and maximum dollar amount to be maintained in the petty cash fund.

- (Q) Interfund Transfers – Section 545-2 of the City Finance Committee Rules requires “A fund transfer resolution must be completed for all transfers between funds and must include a clear statement of reason or purpose for the transfer, the name of the fund from which the transfer is originating, the name of the fund into which the transfer is to be received, and the dollar amount to be transferred.” During the year ended June 30, 2022, the City made transfers which were not approved by resolution.

Recommendation – The City Council should ensure all transfers are approved by resolution and include the information as required by Section 545-2 of the City Finance Committee Rules.

- (R) Unclaimed Property – Chapter 556.11 of the Code of Iowa requires each City to report and remit outstanding obligations, including checks, trusts and bonds held for more than two years, to the Office of Treasurer of State annually. The City did not remit these obligations as required.

Recommendation – Outstanding obligations should be reviewed annually and items over two years old should be remitted to the Office of Treasurer of State, as required.

- (S) Journal Entries – One of three journal entries observed was not properly supported.

Recommendation – Supporting documentation should be maintained for all journal entries.

City of Farley

Detailed Findings and Recommendations

For the period July 1, 2021 through June 30, 2022

(T) Farley Volunteer Fire Department

Background Information:

Chapter 364.16 of the Code of Iowa requires the City to provide for the protection of life and property against fire. This section also states in part, “A City has the same governmental immunity outside its corporate limits when providing fire protection as when operating within the corporate limits.”

Chapter 28E.4 of the Code of Iowa states, “Any public agency of this state may enter into an agreement with one or more public or private agencies for joint or cooperative action pursuant to the provisions of this chapter, including the creation of a separate entity to carry out the purpose of the agreement. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies involved shall be necessary before any such agreement may enter into force.”

Chapter 5 of Title III of the Farley City Code establishes a City Volunteer Fire Department (to prevent and extinguish fires), hereafter referred to as “the City Fire Department”. The City ordinance also states the City shall contract for worker's compensation and liability insurance.

The Farley Volunteer Fire Department, a legally separate entity, was established in December of 1968 under the Iowa Nonprofit Corporation Act under Chapter 504A of the 1966 Code of Iowa. In accordance with the Articles of Incorporation, the purpose and objectives of the corporation are, “The safeguarding of the property and lives of its members and of all families serviced by the Farley Volunteer Fire Department, from fire, and all other emergencies of any kind or descriptions. This is to be accomplished by acquisition of, maintenance and operation of firefighting equipment and other emergency equipment, by the organization and training of volunteer firemen to operate such equipment in time of fire or emergency, in such areas as the Farley Volunteer Fire Department shall assume to protect.” This legally separate entity similarly named the “Farley Volunteer Fire Department” hereafter will be referred to as the “Nonprofit Fire Department”. The City’s Fire Chief has authority over the nonprofit organization.

According to City personnel, the Nonprofit Fire Department provides fire protection to the City of Farley and the townships of Iowa, Taylor, Dodge, Cascade and New Wine in Dubuque County, each of which pay their levied property taxes to the City of Farley. The levied property taxes for the five townships are paid to the City of Farley. The City of Farley uses these funds to service the rural tankers in support of the Nonprofit Fire Department.

The fire trucks used by the Nonprofit Fire Department are titled as “City of Farley” although the funding to purchase the fire trucks is provided by the Nonprofit Fire Department.

According to City personnel, the City of Farley does not pay the Nonprofit Fire Department directly for services to the City, but instead is responsible for paying routine disbursements such as worker’s compensation insurance and liability insurance. The City also owns a building designated as the fire station. While there is no formal contract or agreement spelling out these terms, we did not find evidence contrary to this representation.

City of Farley

Detailed Findings and Recommendations

For the period July 1, 2021 through June 30, 2022

We noted the following:

1. As noted above, in December 1968, the City's Fire Chief and the City Fire Department volunteer firefighters established the Farley Volunteer Fire Department as a legally separate 504A (nonprofit) organization which provides fire protection services to its members and all families serviced by the Farley Volunteer Fire Department.

It is unclear how volunteers of a department created by the City's governing body through City ordinance can legally separate themselves from the City without City Council approval.

2. According to City personnel fire protection services are being provided by the Nonprofit Fire Department and costs associated with the service run primarily through that account. In addition, the City owns the building housing the equipment, and the City pays the worker's compensation insurance for the fire fighters and utilities for the building.

28E agreements as described in Chapters 28E.4 and 359.42 of the Code of Iowa and providing for the joint provision of fire protection exists between the City and the five townships of Iowa, Taylor, Dodge, Cascade and New Wine. These agreements state the City will provide fire protection to the respective township, however there is no formal written agreement between the City and the Nonprofit Fire Department or between the Townships and the Nonprofit Fire Department identifying the terms and conditions under which the Nonprofit Fire Department is to provide service to the City or to each township.

3. During the year ended June 30, 2022, the City deposited grant funds totaling \$1,081 to the Nonprofit Fire Department for the purchase of a hose and portable scene lights for the fire station. During the year ended June 30, 2022, the Nonprofit Fire Department sold a City Fire truck for \$85,000 and deposited the proceeds into the Nonprofit Fire Department account. Per discussion with City officials, the previous fire truck was purchased with fund raising proceeds.

It is unclear whether the above noted grant funds are the responsibility of the City or the Nonprofit Fire Department. In addition, the sale and purchase of the fire truck, which the City holds title, should be the responsibility of the City.

4. Organizations established as nonprofit corporations are typically created to further charitable pursuits, not to provide a service or act as a vendor in providing a service such as fire protection. Legally separate nonprofit "fire" organizations typically exist to support a City government in carrying out its responsibility under Chapter 364.16 of the Code of Iowa to provide fire protection. These nonprofit organizations provide this support by holding various fund raisers and collecting donations to help provide funds to purchase equipment and other items needed by the City to carry out its duties. Funds in these situations flow from the nonprofit organization to the City in compliance with the Iowa Constitution which prohibits public funds from being provided to private, nonprofit organizations.

City of Farley

Detailed Findings and Recommendations

For the period July 1, 2021 through June 30, 2022

The arrangement the City has with the Nonprofit Fire Department to provide fire protection services, and not just to support the City in providing that service, is unusual. It is unclear whether a nonprofit organization can be established for the noted purpose or whether the nonprofit organization is afforded the same immunities in providing the service as a government. In addition, both the name given to the Nonprofit Fire Department as the “Farley Volunteer Fire Department” and the City’s Fire Chief’s oversight of the Nonprofit Fire Department, makes the lines of authority and responsibilities of the Nonprofit Fire Department and the City unclear.

Recommendation – The City should consult legal counsel to determine the validity of the City’s arrangement with the Nonprofit Fire Department to provide fire protection services, including whether the organization has the proper legal immunities for providing that service, i.e., those same immunities afforded a government providing fire protection services, and under what authority the City provides funding and other public property to a private nonprofit organization. Any future agreements between the City and a separate nonprofit organization should be formally documented to clearly identify the roles and responsibilities of each party to the agreement.

(U) Farley Emergency Medical Services, Inc.

Background Information:

Chapter 28E.4 of the Code of Iowa states, “Any public agency of this state may enter into an agreement with one or more public or private agencies for joint or cooperative action pursuant to the provisions of this chapter, including the creation of a separate entity to carry out the purpose of the agreement. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies involved shall be necessary before any such agreement may enter into force.”

The Farley Emergency Medical Services, Inc., a legally separate entity, was established July 1, 2008 under the Iowa Nonprofit Corporation Act under Chapter 504A of the Code of Iowa. According to the Articles of Incorporation of Farley Emergency Medical Services, Inc, the corporation is organized exclusively for charitable, educational, religious or scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code. The primary purpose of the corporation is to provide emergency medical services for those in need. The City of Farley does not pay the Farley Emergency Medical Services, Inc directly for services to the City, but instead is responsible for paying routine disbursements such as insurance, equipment repairs and utilities. The Emergency Medical Services, Inc. provides emergency medical services to the City of Farley and the townships of Iowa, Taylor, Dodge, Cascade and New Wine in Dubuque County each of which have established a 28E agreement for township EMS protection with the City of Farley. The Farley Emergency Medical Services, Inc. also has a contract with EMS Billing Services, Inc, a 3rd party vendor, to provide for billing and collection services. All billing collections are to be directly deposited to the City of Farley’s bank account.

City of Farley

Detailed Findings and Recommendations

For the period July 1, 2021 through June 30, 2022

We noted the following:

1. 28E agreements as described in Chapters 28E.4 and 359.42 of the Code of Iowa and providing for the joint provision of emergency medical services do exist between the City and the five townships however there is no formal written agreement between the City and the Farley Emergency Medical Services, Inc or between the Townships and the Farley Emergency Medical Services, Inc identifying the terms and conditions under which the Farley Emergency Medical Services, Inc is to provide service to the City or to each townships.
2. The funds collected by EMS Billing Services, Inc, the 3rd party billing vendor, are deposited with the City's bank account. In addition, payments to EMS Billing Services, Inc. are paid by the City of Farley. However, the agreement with the 3rd party billing company is between the Farley Emergency Medical Services, Inc., a separate nonprofit organization and EMS Billing Services, Inc. There is no formal agreement established for billing collections or claim reimbursements with the City of Farley. In addition, City procedures do not include a process to ensure billing collections are monitored and properly deposited with the City.
3. Also, on May 27, 2014, the Farley Emergency Medical Services, Inc. entered into a promissory note for \$140,500 with Dubuque County Iowa c/o E.C.I.A. Business Growth Inc. for the purchase of a 2015 Ford ambulance. The City makes the annual payments for this note which should be the responsibility of the Farley Emergency Medical Services, Inc.
4. During the year ended June 30, 2022, the City deposited grant funds totaling \$30,900 to the Nonprofit Medical Emergency Services for the purchase of three defibrillators, side rails, and portable suction device for the fire station. It is unclear whether these grant funds are the responsibility of the City or the Nonprofit Farley Emergency Medical Services, Inc.

Recommendation – The City should consult legal counsel to determine the validity of the City's arrangement with the Farley Emergency Medical Services, Inc. to provide emergency medical services for the City. In addition, if the arrangement with the Farley Emergency Medical Services, Inc., is to continue, an amendment to the contract between the Farley Emergency Medical Services, Inc. and EMS Billing Services, Inc. for billing services should be made to replace the name of the separate nonprofit organization with the name of the City of Farley. In addition, City procedures should be implemented to ensure billing collections are monitored and properly deposited to the City. Further, unless a public purpose is clearly documented and approved by the City Council, the City should discontinue making annual payments on the promissory note for the Farley Emergency Medical Services, Inc.

City of Farley

Detailed Findings and Recommendations

For the period July 1, 2021 through June 30, 2022

- (V) Farley Memorial Hall – The City owns the Farley Memorial Hall and rents out the hall for various events. The rental of the Farley Memorial Hall is managed by the Farley Commercial Club, a legally separate entity, who is responsible for scheduling, giving tours, setting rates and ensuring contracts are signed. The City maintains rental agreements and cash deposits for the Farley Memorial Hall; however, the City has no other role in the rental of the Farley Memorial Hall. The City does not have a written agreement with the Farley Commercial Club including among other things, rights and obligations, rates and expectations regarding alcohol of the Farley Commercial Club in the rental of the hall. In addition, there is no accounting of the activities occurring at the Memorial Hall to ensure all rentals are being collected and remitted to the City. The Farley Commercial Club dissolved January 1, 2023 and management of the Farley Memorial Hall was turned over to the City at that time.

Recommendation – Future such arrangements, if any, with other legally separate entities should be made only through a written agreement establishing, at a minimum, rights and obligations, rates, and expectations regarding alcohol for the rental of the Hall. The agreement should also address an accounting of all activities occurring on City owned property and the City should implement procedures to ensure all rental receipts are remitted to the City.

City of Farley

Staff

This engagement was performed by:

Pamela J. Bormann, CPA, Director
Suzanne R. Dahlstrom, CPA, Manager
Jesse J. Harthan, Senior Auditor II
William R. Bamber, CPA, Senior Auditor