

Moab City Fleet

INTERNAL CONTROL, POLICIES, AND PROCEDURES ANALYSIS



Procedures, Findings, and Recommendations

Larson & Company, PC (Larson) has been engaged by Moab City to provide limited analysis procedures on the Moab City Fleet. The objectives of our engagement are as follows:

It has been requested by the Management of Moab City that we review any policies and procedures and review the fleet of automobiles used by the City employees, noting the following:

- Number of vehicles in the fleet.
- Whether the vehicles listed above are used for personal use.
- Whether the vehicles are taken to the employees' home.

Our procedures included a review of the Audit Alert 2017-03 issued by the Office of the Utah State Auditor, which will be referenced within this document and will be included in its entirety as an appendix to this document, review of IRS publication 15-b which can be obtained at the following web address: <https://www.irs.gov/pub/irs-pdf/p15b.pdf>. Our procedures also included obtaining information from each department head regarding the number of vehicles used by their department and an identifying description, where the vehicle is primarily used, and if the vehicle is taken home, as well as a review of the City's insurance policy listing all vehicles currently insured by the Utah Local Governments Trust.

As a part of our procedures, we looked for controls, policies, or procedures that have already been implemented or that are functioning properly, we will provide additional recommendations in this report to assist the City in creating and maintaining proper internal controls, policies, and procedures going forward.

Our procedures and recommendations include illustrations, summations of relevant Audit Alerts, and best practice controls which are specific to the procedures identified above. This report is to specifically assist the City, however, the controls identified, recommended, and reported can also be applied to any department within the City to strengthen existing controls, or implement new controls in order to mitigate risk.

Summation of Audit Alert 2017-03

Subject: Noncompliance with Reporting Personal Vehicle Use

The purpose of the audit alert issued by the Office of the Utah State Auditor was a result of recent investigations they have performed or instances relayed to them where public entities have failed to comply with IRS guidelines related to the reporting of personal use of entity-provided vehicles as taxable income, or who have failed to report such compensation to the Utah Public Finance Website.

If an employee is uses a vehicle owned by the City for commuting or personal use (other than de minimus use), the IRS requires that the portion of personal use be reported as a taxable fringe benefit. IRS publication 15-B states that, "Personal use is any use of the vehicle other than use in your trade or business". This includes commuting use. The value of the benefit provided to an employee "must be included in the employee's wages or reimbursed by the employee".

Further reference of the alert will be included hereafter.

Procedures, Findings, and Recommendations

City Fleet

During our review we noted that the City owned 66 vehicles that were in use at the time the information was requested. We also noted that 27 of those vehicles were allowed to be taken home by the employees. 2 of the 27 vehicles allowed to be taken home are used by on-call employees which will be addressed at a later point.

Recommendations

We recommend that the City **create** internal policies and procedures that document and clearly state the IRS regulations regarding the personal use of vehicles. The City should discuss with those employees who are allowed to take the vehicles to their homes, the reason those vehicles are taken home, if they are used solely for commuting, or whether there is an “excludable from compensation” reason they are not left on City property.

According to the issued audit alert, “excludable from compensation” conditions include that the vehicle must be “clearly marked, through painted insignia or word, police, fire, and public safety vehicles”. However, unmarked vehicles may also fall under this exclusion in certain circumstances. In our opinion, it is the principal of the vehicle use which allows it to fall under the exclusion. In other words, if the employee is in the process of performing his/her duties as an employee of the City, this would fall under the exclusion. If the employee is using the vehicle for commuting purposes and is not being paid by the City at the time of the use, then the use of that vehicle at that time would be a taxable fringe benefit, whether or not the vehicle is clearly marked.

Some clarifying examples as to when the use would fall under the exclusion might be helpful to assist the City to create their policies and procedures:

1. If an employee will be travelling straight to the jobsite the following day, and it is more convenient and cost effective to travel from his/her home directly to the work site, rather than go to the City to retrieve a vehicle, then the personal use of the vehicle would fall under the exclusion.
2. If an employee will be travelling a significant distance for hours extending beyond normal work hours, and for safety reasons would not want to leave their personal vehicle on City premises during that time, the personal use of a City owned vehicle driven to their home and subsequently left straight from their home to their destination would fall under the exclusion.
3. **On Call.** If an employee under their job description is considered to be “on call” at various times after hours, their use of a City owned vehicle would fall under the exclusion.
4. **Public Safety.** In the case of public safety, if the employee has the ability to be called out at any time for public safety reasons, and it is a detriment or hindrance to the employee to return to the City premises, the use of City owned vehicle **could** fall under the exclusion. This should be limited to public safety officials such as police, fire, and emergency responders who are frequently called to an emergency off hours.
5. **Additional public safety considerations.** Due to the nature of public safety officials, justification of personal use may be inferred by the fact that any marked police or public safety vehicle whether on duty or not portrays an element of “safety” no matter their location. For this reason we believe that an officer’s use of a marked public safety vehicle would fall under the exclusion when off-duty as a de minimus use. However, extreme commuting would not fall under the exclusion. Extreme

Procedures, Findings, and Recommendations

commuting would be commuting to and from home which is in another City or location outside of the officers jurisdiction.

On Call

City policies should be specific to the use of vehicles while on call. They should include when it is/is not appropriate to use City vehicles other requirements for on call employees. Other requirements should include how the employee is compensated while on call, and the duration of each employees "on call" shift. Documentation should be kept by the City to document these on call shifts, noting the time period and compensation, as well as the authorized use of vehicles.

Insurance

The City insures its vehicles through the Utah Local Governments Trust. As a part of our procedures we reviewed the City's insurance policy as well as a detailed list of the vehicles currently insured by the Trust. We noted that there appear to be some vehicles that are either old or not in use listed on the insurance. We also noted that there are a number of OHV machines that are not included on the insurance list. We recommend that the City review its insurance coverage on each vehicle, identifying each with a unique identifier for ease of recognition, and add vehicles, machines, or equipment that are currently used by the City or remove vehicles, machines, or equipment that have been disposed of or are no longer in use by the City. We can provide the detail information to the appropriate individuals within the City to assist in this process. Unique identifiers should be used on a consistent basis, and may be determined at the discretion of the City. Examples include, VIN numbers, license plate numbers, asset numbers, etc.

Vehicles as a fringe benefit

IRS Publication 15-b also addresses the issue of vehicles provided as a part of an employee's compensation package. These vehicles, as well as any other fringe benefits an entity provides, are subject to taxation and must be included in the recipients pay unless the law specifically excludes it. (page 3 of IRS publication 15-b). As a part of our review, we noted no instances of vehicles as a part of employee's compensation, however the City should address this issue in its policies and procedures.

General Recommendation

As a general recommendation covering all areas covered in this report, we recommend that the City **formalize and document written procedures**. As a part of those procedures, the City should include **clearly defined uses for vehicles which would fall under exclusions as taxable benefits**. Those uses would be for public safety, various circumstances where it is more efficient and cost effective for the employee to leave directly from their personal residence the following day to the jobsite or extended travel, or on-call employees as defined in the City policies. The City should also clarify, determine, and set a rate **which will be included as taxable benefits** to the employees for personal use of City vehicles. The set rate may be a daily value based on the amount of personal use set at the discretion of the city, the IRS mileage rate which is set on an annual basis (mileage would be required to be recorded), or any other reasonable compensation method determined by management and those charged with governance of the City. In order for the City to be in compliance with IRS guidelines **personal use** of City owned vehicles **must be included** as taxable compensation to the employee. We also recommend that the when the City

Procedures, Findings, and Recommendations

has created and implemented policies and procedures for vehicle use, they **disseminate a city wide memo** to all employees informing them of the new policies and procedures of the City. These policies and procedures can incorporate not only policies on the use of City vehicles, but also to any taxable fringe benefit that may occur in the course of employment.

Reporting the value of vehicle use to the Utah Public Finance Website

Further guidance included in the recent audit alert is the requirement to report the value of personal use of vehicles to the Utah Public Finance Website. This includes not only personal vehicle use, but also all taxable fringe benefits in the course of employment. The alert states that “in addition, an employee’s use of an entity provided vehicle for commute or personal use meets the definition of gross compensation in Utah Code. *Utah Code* 63G-2-103(12) defines gross compensation as “...every form of remuneration payable for a given period to an individual...including...payments in kind, and any similar benefit received from the individual’s employer.” As such, a public entity should annually report the value of the compensation benefit for each employee’s commute and personal use of an entity provided vehicle to the Utah Public Finance Website in accordance with Transparency Advisory Board policy #01-01.02B(4).” This reporting should also include all other taxable fringe benefits provided by the employee.

Restrictions, Limitations, and Major Assumptions

Our analysis should not be interpreted as a complete and comprehensive review of all of the procedures in the Department. Rather, our scope of review was restricted to the terms or our procedures defined in this report. We have not, other than as noted herein, for example, analyzed or provided any commentary on management, security matters, financial reporting, legal issues, or other subject matter that extends beyond the scope of our engagement.

The report is solely for use of the Management of the City for the analysis of current and recommended policies and procedures of the City. Without exception, no part, section, or schedules contained in this report, is intended for general circulation or publication nor is either presentation of any part thereof to be reproduced or used for any purpose other than that outlined above without our written permission in each specific instance. We do not assume any responsibility or liability for losses incurred by any parties as a result of the circulation, publication, reproduction or use of either presentation, or any part thereof, contrary to the provisions of this paragraph.

Without limiting the generality of the foregoing, the report, or any references thereto or summaries thereof or any other oral or written opinions or advice of Larson & Company PC including the contents of any oral or written presentations made by us and references to us or any material provided by us, shall not be used, published or distributed in whole or in part in any way or to any other person without our prior written consent.

We offer no guarantee or warranty that any commentary indicated in our report would represent the views that would be accepted by any other party, including but not limited to the Department, Management of the City, or the Courts of Law. Accordingly, we can accept no responsibility for and adverse consequences that may arise.

It is understood that Larson & Company's services may include advice and recommendations, and that Larson shall have no responsibility for the implementation of such advice and recommendations. Moab City shall be solely responsible for, among other things: (a) making all management decisions; (b) designating a competent employee, preferably within senior management, to oversee Larson's service hereunder on behalf of the Department; (c) evaluation on behalf of the Department the adequacy and results of such services; (d) accepting responsibility for the results of such services; and (e) establishing and maintaining internal controls, including, without limitation, monitoring ongoing activities.

We have relied on the completeness, accuracy, and fair presentation of all the information, data, advice, opinions or representations obtained from the Departments and City Management. In limited instances, as noted in the procedures above, we performed limited procedures to verify the completeness and accuracy of some information. Otherwise, we have not attempted to verify independently the completeness, accuracy or fair presentation of the information.

No opinion, counsel, or interpretation is intended in matters that require legal or other appropriate professional advice. It is assumed that such opinion, counsel, or interpretations have been or will be obtained from the appropriate professional sources. To the extent that there are legal issues relating to recommendations or issues relating to compliance with applicable laws, regulation, and policies, we assume no responsibility therefore.

We disclaim any undertaking or obligation to advise any person of any change in fact or matter affecting the report, which may come or be brought to our attention after the date hereof.

Should any of the information provided to us not be factual or correct, or should we be asked to consider different information or assumption, our commentary, as set out in this report, could be significantly different.

Appendix



OFFICE OF THE STATE AUDITOR

Auditor Alert 2017-03

Date: August 29, 2017

Subject: Noncompliance with Reporting Personal Vehicle Use

The Office of the State Auditor has recently investigated or been advised of instances where public entities may have (1) failed to comply with IRS guidelines related to reporting personal use of entity-provided vehicles as taxable income or (2) failed to report such compensation to the Utah Public Finance Website. This Auditor Alert is intended to remind local government officials of these requirements.

Reporting Personal Vehicle Use to the IRS as Taxable Income

In general, if an employee of a public entity is assigned a vehicle which is used for commute or personal use (other than de minimus use), the IRS requires that the portion of personal vehicle use be reported as a taxable fringe benefit. IRS publication 15-B, page 23, states that, "Personal use is any use of the vehicle other than use in your trade or business." This could include commute use. The value of the benefit provided to an employee "must be included in the employee's wages or reimbursed by the employee."

In certain limited conditions, personal use of a vehicle by an employee may be exempt from taxation under the IRS designation of a "Qualified nonpersonal use vehicle" (page 21). To be exempt from taxation, the vehicle use must comply with certain requirements. One specific requirement is that the vehicle must be "[c]learly marked, through painted insignia or words, police, fire, and public safety vehicles." We remind entities that vehicles which have only small markings or markings similar in color to the vehicle may not meet the IRS criteria of a "clearly marked public safety vehicle." Also, the use of unmarked vehicles by law enforcement officers must be "officially authorized" to avoid being subject to taxation. See IRS publication 15-B, pg. 21-22 for other exemptions, particularly related to service trucks and vehicles.

IRS Publication 15-B, page 2, also classifies vehicles which are provided as part of an employee's compensation package as fringe benefits. These vehicles, as well as any other fringe benefits an entity provides, are also subject to taxation and must be included in the recipient's pay unless the law specifically excludes it (see page 3). As such, entity officials should read and follow the requirements in IRS Publication 15-B.

Reporting the Value of Vehicle Use to the Utah Public Finance Website

In addition, an employee's use of an entity-provided vehicle for commute or personal use meets the definition of "Gross Compensation" in Utah Code. *Utah Code* 63G-2-103(12) defines gross compensation as "...every form of remuneration payable for a given period to an individual ... including ... payments in kind, and any similar benefit received from the individual's employer." As such, a public entity should annually report the value of the compensation benefit for each employee's commute and personal use of an entity-provided vehicle to the Utah Public Finance Website in accordance with Transparency Advisory Board policy #01-01.02.B(4).