

Report on the

Macon County Commission

Macon County, Alabama

October 1, 2009 through September 30, 2013

Filed: November 28, 2014



Department of Examiners of Public Accounts

50 North Ripley Street, Room 3201

P.O. Box 302251

Montgomery, Alabama 36130-2251

Website: www.examiners.alabama.gov

Ronald L. Jones, Chief Examiner



Ronald L. Jones
Chief Examiner

State of Alabama
Department of
Examiners of Public Accounts

P.O. Box 302251, Montgomery, AL 36130-2251
50 North Ripley Street, Room 3201
Montgomery, Alabama 36104-3833
Telephone (334) 242-9200
FAX (334) 242-1775

Honorable Ronald L. Jones
Chief Examiner of Public Accounts
Montgomery, Alabama 36130

Dear Sir:

Under the authority of the *Code of Alabama 1975*, Section 41-5-21, I submit this report on the results of the examination of the Macon County Commission, Macon County, Alabama, for the period October 1, 2009 through September 30, 2013.

Sworn to and subscribed before me this
the 23rd day of October, 2014.

Jan Hall
Notary Public

rb

Respectfully submitted,

David J. Lane, Sr.
Examiner of Public Accounts

Table of Contents

	<i>Page</i>
Summary	A
Contains items pertaining to state and local legal compliance.	
Schedule of State and Local Compliance and Other Findings	C
Contains detailed information about findings pertaining to state and local legal compliance and other findings.	
<u>Additional Information</u>	1
Provides basic information related to the Commission.	
Exhibit #1 Commission Members and Administrative Personnel – a listing of the Commission members and administrative personnel.	2



Department of
Examiners of Public Accounts

SUMMARY

**Macon County Commission
October 1, 2009 through September 30, 2013**

The Macon County Commission (the "Commission") is a five-member body elected by the citizens of Macon County. The members and administrative personnel in charge of governance of the Commission are listed on Exhibit 1. The Commission is the governmental agency that provides general administration, public safety, construction and maintenance of county roads and bridges, sanitation services, health and welfare services, and educational services to the citizens of Macon County.

This report presents the results of an examination of the Commission and a review of compliance by the Commission with applicable laws and regulations of the State of Alabama in accordance with the requirements of the Department of Examiners of Public Accounts under the authority of the *Code of Alabama 1975*, Section 41-5-14.

Findings are numbered and reported by the fiscal year in which the finding originally occurred.

Instances of noncompliance with state and local laws and regulations and other matters were found during the examination as shown on the Schedule of State and Local Compliance and Other Findings and they are summarized below.

CURRENT FINDINGS

- ◆ 2013-001 relates to the Commission's failure to maintain all bid documents.
- ◆ 2013-002 relates to the Commission's failure to competitively bid roadside spraying services and fuel.
- ◆ 2013-003 relates to the Commission's failure to competitively bid public works projects.
- ◆ 2013-004 relates to the Commission's failure to obtain and file the required bonds for the Commissioners.
- ◆ 2013-005 relates to the Commission utilizing the General Obligation Warrants, Series 2007 bond proceeds for purposes other than those set forth in the bond documents.

- ◆ 2013-006 relates to the Commission utilizing the General Obligation Warrants, Series 2009 bond proceeds for purposes other than those set forth in the bond documents.
- ◆ 2013-007 relates to the Commission utilizing the State Gasoline Tax Anticipation Warrants, Series 2012 bond proceeds for purposes other than those set forth in the bond documents.
- ◆ 2013-008 relates to the Commission loaning restricted funds to the General Fund.
- ◆ 2013-009 relates to the Commission utilizing the Macon County Public Building Authority Revenue Warrants, Series 2009 bond proceeds for purposes other than those set forth in the bond documents.
- ◆ 2013-010 relates to the Commission's failure to distribute bail bond fees to the Sheriff.

Findings that were presented in prior examinations have not been resolved as shown on the Schedule of State and Local Compliance and Other Findings and they are summarized below.

UNRESOLVED PRIOR FINDINGS

- ◆ 2008-003 relates to the Commission's budgeting fund deficits.
- ◆ 2007-001 relates to deficit fund balances.
- ◆ 2007-002 relates to the Commission's failure to maintain accurate records of its meetings.

The following officials/administrative personnel were invited to an exit conference to discuss the findings and recommendations appearing in this report: Administrator of the County Commission: Susan Thomas; County Personnel Director/Treasurer: Gertrude Benjamin; Louis Maxwell, Commission Chairman; Commissioners: Miles D. Robinson, Edward Huffman, Andrew D. Thompson, Jr., and Robert M. Berry; and Former Commissioner: Albert Daniels. The following individuals attended the exit conference held at the offices of the Commission: Louis Maxwell, Commission Chairman; Commissioners: Miles D. Robinson, Edward Huffman, Andrew D. Thompson, Jr., and Robert M. Berry; Susan Thomas, County Administrator; Gertrude Benjamin, County Personnel Director/Treasurer; and representatives from the Department of Examiners of Public Accounts: Tammy D. Shelley, Audit Manager; and David J. Lane, Sr., Examiner.

*Schedule of State and Local
Compliance and Other Findings*

Schedule of State and Local Compliance and Other Findings
For the Period October 1, 2009 through September 30, 2013

Ref. No.	Finding/Noncompliance
2013-001	<p><u>Finding:</u> The <i>Code of Alabama 1975</i>, Section 41-16-54 (e) states all original bids together with all documents pertaining to the award of the contract shall be retained in accordance with a retention period of at least seven years established by the Local Government Records Commission and shall be open to public inspection. The Commission did not maintain all bid documents during the examination period.</p> <p><u>Recommendation:</u> The Commission should maintain all bid documents in accordance with the <i>Code of Alabama 1975</i>, Section 41-16-54 (e).</p>
2013-002	<p><u>Finding:</u> The <i>Code of Alabama 1975</i>, Section 41-16-50 states the expenditure of funds of whatever nature for labor, services, work, or for the purchase of materials, equipment, supplies, or other personal property involving fifteen thousand dollars (\$15,000) or more made by or on behalf of any of the county commissions, except as hereinafter provided, shall be made under contractual agreement entered into by free and open competitive bidding, on sealed bids, to the lowest responsible bidder. The Commission paid \$110,247.20 for roadside spraying services and \$15,500.35 for fuel during fiscal year 2011 and did not bid these items.</p> <p><u>Recommendation:</u> The Commission should competitively bid all purchases over \$15,000 as required by the <i>Code of Alabama 1975</i>, Section 41-16-50.</p>
2013-003	<p><u>Finding:</u> Title 39 of the <i>Code of Alabama 1975</i> defines public works as the construction, installation, repair, renovation, or maintenance of public buildings, structures, sewers, waterworks, roads, curbs, gutters, side walls, bridges, docks, underpasses, and viaducts as well as any other improvement to be constructed, installed, repaired, renovated, or maintained on public property and to be paid, in whole or in part, with public funds or with financing to be retired with public funds in the form of lease payments or otherwise. It also requires that before entering into any contract for a public works involving an amount in excess of fifty thousand dollars (\$50,000), the awarding authority shall advertise for sealed bids. During the examination period, the Commission constructed and renovated four recreation centers. Expenditures for each of these projects exceeded \$50,000 and totaled \$1,484,508.77. The construction and renovations of the recreation centers were not bid as required by Title 39 of the <i>Code of Alabama 1975</i>.</p> <p><u>Recommendation:</u> All projects meeting the definition of public works should be bid in accordance with Title 39 of the <i>Code of Alabama 1975</i>.</p>

Schedule of State and Local Compliance and Other Findings
For the Period October 1, 2009 through September 30, 2013

Ref. No.	Finding/Noncompliance
2013-004	<p><u>Finding:</u> Chapter 2 of Title 11 of the <i>Code of Alabama 1975</i>, requires Commissioners to obtain a bond in the amount of one-half of one percent of the amount budgeted in the then current county general fund. It also requires the bond be filed in the office of the Probate Judge no later than the date that the Commissioner takes office. The Commissioners did not have bonds at September 30, 2013; likewise, there were no bonds on file in the office of the Probate Judge.</p> <p><u>Recommendation:</u> Commissioners should obtain bonds and file them in the office of the Probate Judge in accordance with Chapter 2 of Title 11 of the <i>Code of Alabama 1975</i>.</p>
2013-005	<p><u>Finding:</u> The Macon County Commission issued General Obligation Warrants, Series 2007 dated October 1, 2007. According to the Official Statement, the purpose of the warrants being issued was “to pay the costs of certain improvements to the county courthouse” and “to pay the costs of a new maintenance building to house machinery and equipment used for the maintenance of roads and public facilities.” In testing the expenditures recorded in the 2007 General Obligation Construction Fund, it was noted that the proceeds were used for the purchase of a computer at the jail, lawn care services, a sign for the Multicultural Center, and renovations at the Macon County Hospital. The total of these purchases was \$142,657.94. The use of the proceeds did not appear to comply with the provisions outlined in the related bond documents.</p> <p><u>Recommendation:</u> The Commission should comply with the provisions in the bond documents for the General Obligation Warrants, Series 2007 for the use of the proceeds derived from the issuance.</p>

Schedule of State and Local Compliance and Other Findings
For the Period October 1, 2009 through September 30, 2013

Ref. No.	Finding/Noncompliance
2013-006	<p><u>Finding:</u> The Macon County Commission issued General Obligation Warrants, Series 2009 dated August 1, 2009. According to the Official Statement, the purpose of the warrants being issued was to advance refund the County's General Obligation Warrants, Series 2007 and "to construct various capital improvements to the County's infrastructure". Proceeds of this issuance totaled \$1,500,000 and a total of \$1,470,403.06 was expended during the examination period. In testing the expenditures recorded in the 2009 General Obligation Construction Fund, it was noted that a total of \$80,908.70 of the proceeds was used to purchase items defined as infrastructure. The remaining \$1,389,494.96 use of the proceeds did not appear to comply with the provisions outlined in the related bond documents.</p> <p><u>Recommendation:</u> The Commission should comply with the provisions in the bond documents for the General Obligation Warrants, Series 2009 for the use of the proceeds derived from the issuance.</p>
2013-007	<p><u>Finding:</u> The Macon County Commission issued State Gasoline Tax Anticipation Warrants, Series 2012, dated August 1, 2012. According to the Official Statement, the purpose of the warrants being issued was to pay "the costs of construction, surfacing, resurfacing, grading and draining of roads, streets, and bridges in the County". In testing the expenditures recorded in the 2012 State Gasoline Tax Anticipation Construction Fund, it was noted that the proceeds were used for the purchase of road signs, repairs on equipment and vehicles, three mower attachments for tractors, and pumping of the septic tank at the county jail. The total of these purchases was \$102,326.39. The use of the proceeds did not appear to comply with the provisions outlined in the related bond documents.</p> <p><u>Recommendation:</u> The Commission should comply with the provisions in the bond documents for the State Gasoline Tax Anticipation Warrants, Series 2012 for the use of the proceeds derived from the issuance.</p>

Schedule of State and Local Compliance and Other Findings
For the Period October 1, 2009 through September 30, 2013

Ref. No.	Finding/Noncompliance
2013-008	<p><u>Finding:</u> The <i>Code of Alabama 1975</i>, Section 11-29-6, the legal authority for the Capital Improvement Fund, states these funds are to be used to assist in the restoration and improvement of county government buildings, bridges, roads, streets, and other facilities, and to promote the health, safety, and public welfare of the citizens of the state. The Commission made loans from the Capital Improvement Fund to the General Fund during fiscal years 2010-2013. We were unable to determine if expenditures made by the General Fund were in accordance with the <i>Code of Alabama 1975</i>, Section 11-29-6. At September 30, 2013, the General Fund owed the Capital Improvement Fund \$1,306,307.30 of which \$1,181,891.48 was Capital Improvement Fund revenues for fiscal years 2010-2013.</p> <p><u>Recommendation:</u> The Commission should not make interfund loans using restricted funds and should pay back the remaining \$1,306,307.30 due to the Capital Improvement Fund from the General Fund.</p>
2013-009	<p><u>Finding:</u> In conjunction with a funding agreement between the Macon County Commission and the Macon County Public Building Authority, the Macon County Public Building Authority Revenue Warrants, Series 2009, dated May 1, 2009 were issued. According to the Official Statement, the purpose of the warrants being issued was to currently refund and retire the Building Authority's Revenue Warrants, Series 1999 and "finance the costs of constructing administrative office facilities for the county". In testing the expenditures recorded in the 2009 Public Building Authority Construction Fund, it was noted that the \$1,500,000 proceeds of the debt issuance were used for the construction of recreation centers, including both buildings and athletic fields. The use of the proceeds did not appear to comply with the provisions outlined in the related bond documents.</p> <p><u>Recommendation:</u> The Commission should comply with the provisions in the bond documents for the Macon County Public Building Authority Revenue Warrants, Series 2009 for the use of the proceeds derived from the issuance.</p>

Schedule of State and Local Compliance and Other Findings
For the Period October 1, 2009 through September 30, 2013

Ref. No.	Finding/Noncompliance
2013-010	<p><u>Finding:</u> According to the <i>Code of Alabama 1975</i>, Sections 12-19-311 and 12-19-312, bail bond filing fees and bail bond fees paid to the County General Fund are to be distributed to a fund administered by the Sheriff to be expended at the direction of the Sheriff for the operation of the jail. During the examination period, these fees were retained by the Commission in the County General Fund.</p> <p><u>Recommendation:</u> The Commission should ensure that all fees collected pursuant to the <i>Code of Alabama 1975</i>, Sections 12-19-311 and 12-19-312 are distributed to a fund administered by the Sheriff to be expended at the direction of the Sheriff for the operation of the jail.</p>
2008-003	<p><u>Finding:</u> The <i>Code of Alabama 1975</i>, Section 11-8-3, requires the Commission to budget appropriations that are not in excess of estimated total revenues available for appropriations. The Commission's budgets for fiscal years 2010, 2011, 2012, and 2013 did not take existing deficit fund balances into account.</p> <p><u>Recommendation:</u> The Commission should budget appropriations within the estimated total revenues available for appropriations in accordance with the <i>Code of Alabama 1975</i>, Section 11-8-3.</p>

Schedule of State and Local Compliance and Other Findings
For the Period October 1, 2009 through September 30, 2013

**Ref.
No.**

Finding/Noncompliance

2007-001	<p><u>Finding:</u> The <i>Code of Alabama 1975</i>, Section 11-8-10, states that the Commission shall not issue warrants until funds are available. The following funds had deficit fund balances at September 30 of each of the fiscal years listed below:</p> <table border="1" style="margin-left: 40px;"> <thead> <tr> <th rowspan="2">Fund</th> <th colspan="4">Fiscal Year Ending September 30</th> </tr> <tr> <th>2010</th> <th>2011</th> <th>2012</th> <th>2013</th> </tr> </thead> <tbody> <tr> <td>General</td> <td>\$642,130.18</td> <td>\$969,819.57</td> <td>\$1,373,483.56</td> <td>\$1,597,629.65</td> </tr> <tr> <td>Gasoline Tax</td> <td></td> <td></td> <td>\$ 458,448.87</td> <td>\$ 305,679.34</td> </tr> <tr> <td>Public Highway and Traffic</td> <td>\$ 55,796.05</td> <td>\$ 57,013.27</td> <td>\$ 2,416.87</td> <td></td> </tr> <tr> <td>RRR Gasoline Tax</td> <td>\$ 409.38</td> <td>\$ 49,144.96</td> <td>\$ 105,390.79</td> <td></td> </tr> <tr> <td>Recreation</td> <td>\$ 1,993.01</td> <td>\$ 806.24</td> <td>\$ 6,971.01</td> <td>\$ 4,259.54</td> </tr> <tr> <td>Retired Senior Volunteer Program</td> <td>\$ 3,951.36</td> <td>\$ 4,659.73</td> <td>\$ 837.77</td> <td>\$ 6,887.62</td> </tr> <tr> <td>Supernumerary</td> <td></td> <td></td> <td></td> <td>\$ 20.40</td> </tr> <tr> <td>CDBG</td> <td>\$ 39,255.01</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Group Insurance</td> <td></td> <td>\$ 24,874.37</td> <td>\$ 24,155.15</td> <td>\$ 2,973.27</td> </tr> </tbody> </table> <p><u>Recommendation:</u> The Commission should issue warrants only from available funds and should not enter into obligations exceeding available resources.</p>	Fund	Fiscal Year Ending September 30				2010	2011	2012	2013	General	\$642,130.18	\$969,819.57	\$1,373,483.56	\$1,597,629.65	Gasoline Tax			\$ 458,448.87	\$ 305,679.34	Public Highway and Traffic	\$ 55,796.05	\$ 57,013.27	\$ 2,416.87		RRR Gasoline Tax	\$ 409.38	\$ 49,144.96	\$ 105,390.79		Recreation	\$ 1,993.01	\$ 806.24	\$ 6,971.01	\$ 4,259.54	Retired Senior Volunteer Program	\$ 3,951.36	\$ 4,659.73	\$ 837.77	\$ 6,887.62	Supernumerary				\$ 20.40	CDBG	\$ 39,255.01				Group Insurance		\$ 24,874.37	\$ 24,155.15	\$ 2,973.27
Fund	Fiscal Year Ending September 30																																																						
	2010	2011	2012	2013																																																			
General	\$642,130.18	\$969,819.57	\$1,373,483.56	\$1,597,629.65																																																			
Gasoline Tax			\$ 458,448.87	\$ 305,679.34																																																			
Public Highway and Traffic	\$ 55,796.05	\$ 57,013.27	\$ 2,416.87																																																				
RRR Gasoline Tax	\$ 409.38	\$ 49,144.96	\$ 105,390.79																																																				
Recreation	\$ 1,993.01	\$ 806.24	\$ 6,971.01	\$ 4,259.54																																																			
Retired Senior Volunteer Program	\$ 3,951.36	\$ 4,659.73	\$ 837.77	\$ 6,887.62																																																			
Supernumerary				\$ 20.40																																																			
CDBG	\$ 39,255.01																																																						
Group Insurance		\$ 24,874.37	\$ 24,155.15	\$ 2,973.27																																																			
2007-002	<p><u>Finding:</u> The <i>Code of Alabama 1975</i>, Section 36-25A-4, requires a governmental body to maintain accurate records of its meetings, excluding executive sessions, setting forth the date, time, place, members present or absent, and action taken at each meeting. There were several instances where there were no minutes for meetings of the Commission. Also, there were numerous instances where resolutions were passed (adopted) by the Commission, but they were not included in the Commission's minute book.</p> <p><u>Recommendation:</u> The Commission should maintain accurate records of its meetings in accordance with the <i>Code of Alabama 1975</i>, Section 36-25A-4.</p>																																																						

This Page Intentionally Blank

Additional Information

Commission Members and Administrative Personnel
October 1, 2009 through September 30, 2013

Commission Members

Term Expires

Hon. Louis Maxwell	Chairman	November 2016
Hon. Miles D. Robinson	Member	November 2016
Hon. Edward Huffman	Member	November 2016
Hon. Andrew D. Thompson, Jr.	Member	November 2016
Hon. Robert M. Berry	Member	November 2016
Hon. Albert Daniels	Member	November 2012

Administrative Personnel

Susan Thomas	County Administrator	Indefinite
Gertrude Benjamin	Personnel Director/Treasurer	Indefinite