

AUDIT TEAM
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**911 FEE RECEIPTS, 911 DATABASE
CHARGES & TOBACCO EXCISE TAX
RECEIPTS AUDIT**

JULY 5, 2023

MAYOR AND CITY COUNCIL

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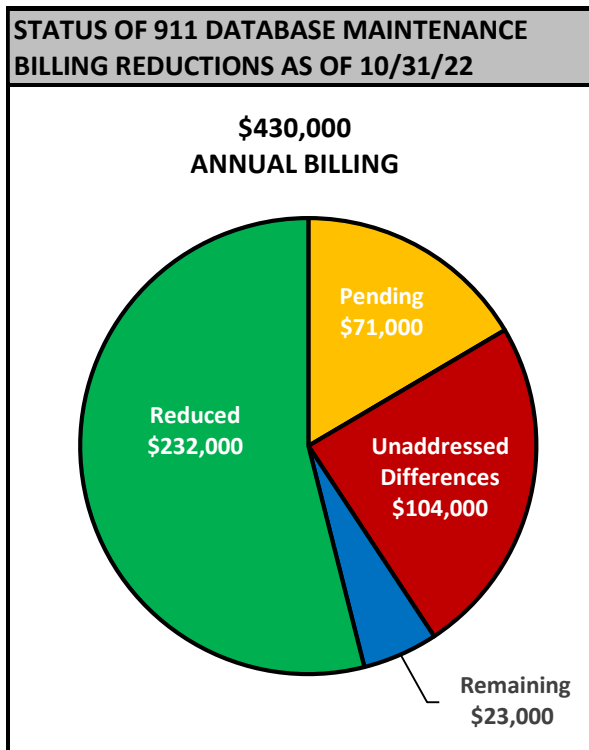
July 5, 2023

The Mayor and City Council:

The Office of the City Auditor has completed an audit of City procedures for monitoring the completeness of landline 911 fees received and the accuracy of 911 database maintenance billings paid by the City in light of City 911 fee receipts. We also evaluated City procedures for monitoring the accuracy and completeness of 911 fee and tobacco excise tax apportionments received from the Oklahoma Tax Commission (OTC).

Based on the results of our audit, we believe that, as of December 31, 2021, procedures are not in place to ensure the completeness of landline 911 fees received by the City or the accuracy of 911 database maintenance billings paid by the City; and 911 database maintenance charges have been significantly overbilled since 2012. Additionally, procedures for monitoring OTC 911 fee and tobacco excise tax apportionment accuracy and completeness are not adequate.

911 database maintenance charges to the City were reduced by more than half during this audit because of identified overbillings, however, suspected overbillings needing attention continue. The status, as of October 31, 2022, of related billing reductions resulting from our audit and recommendations for addressing known and suspected 911 overbillings/unremitted 911 fees and improving 911 fee and tobacco tax monitoring procedures are summarized as follows:



Overbilling/Unremitted Fee Recommendations:

- ■ Quantification and recovery should be considered for previous overbillings relating to significant annual billing reductions during the audit. See Recommendations 1 and 5.
- ■ Timely billing reduction should be ensured for pending removals of internet-based lines from the 911 database and recovery of related prior overbillings should be considered. See Recommendations 4 and 5.
- ■ Unaddressed differences remaining between 911 billing and 911 fee receipt line counts should be resolved and related 911 billing reductions/unremitted 911 fee collections pursued as appropriate. Recovery of amounts relating to prior years should also be considered. See Recommendations 3-7.

EXECUTIVE SUMMARY: Audit Report 21-02

- Quantification and recovery should be considered for 911 fees remitted by a telephone service provider to the incorrect governing body since 2012. See Recommendation 11.

911 Fee Completeness & 911 Billing Accuracy Monitoring Recommendations:

On May 17, 2023, after audit fieldwork completion, the Governor of Oklahoma signed House Bill 1590 (HB 1590), repealing the Oklahoma statute authorizing municipalities to impose an emergency telephone fee on traditional landlines. Landline 911 fees will be collected by the OTC and apportioned to local governments beginning November 1, 2023, in accordance with HB 1590. Therefore, the necessity of implementing the recommendations that follow will need to be assessed after this law becomes effective and its related impacts are fully understood.

- The 911 database and a census of customers from telephone service providers should be annually obtained and compared for reasonableness. See Recommendations 2, 8, and 9.
- Line counts submitted with 911 fee remittances by telephone service providers should be reviewed for reasonableness. See Recommendation 10.

OTC 911 Fee & Tobacco Excise Tax Apportionment Monitoring Recommendations:

- The City Treasurer's Office should work with the Oklahoma 911 Management Authority to investigate and, if appropriate, pursue recovery of 911 fees identified as potentially unremitted to the OTC by a telephone service provider. See Recommendation 13.
- The accuracy of 911 fee and tobacco excise tax apportionments from the OTC should be verified annually through complete recalculations (especially given the passage of HB 1590). See Recommendations 12 and 14.

The content and emphasis of items included in this report have been discussed with appropriate management representatives to assure a complete understanding of the observations arising from our audit. Management responses are attached to this report in their entirety.


Matt Weller
City Auditor


Brett Rangel
Audit Manager

911 FEE RECEIPTS, 911 DATABASE CHARGES & TOBACCO EXCISE TAX RECEIPTS AUDIT

AUDIT OBJECTIVES

The objectives of our audit were to, as of December 31, 2021, evaluate the adequacy and effectiveness of procedures for:

- Monitoring the completeness of landline 911 fees received by the City directly from telephone service providers and the accuracy of 911 database maintenance billings paid by the City in light of City 911 fee receipts, and
- Monitoring the accuracy and completeness of 911 fees and tobacco excise tax apportionments received by the City from the Oklahoma Tax Commission (OTC).

BACKGROUND

911 Fees are intended to help fund local 911 emergency dispatch services. Separate State statutes govern 911 fees relating to traditional landline phone technology and internet-based/wireless phone technology. Landline 911 fees are collected from customers by telephone service providers and remitted directly to the City in accordance with the City's Municipal Code.¹ Internet-based and wireless telephone 911 fees are collected from customers by telephone service providers, remitted to the OTC, and apportioned by the OTC to local governments Statewide.² 911 fees received fund City Emergency Management Fund operations along with transfers from the City's General Fund.

Telephone service providers are required to provide 911 phone services in all areas where such services are available.³ One telephone service provider also maintains a database (911 database provider) associating landline customer phone numbers, regardless of provider, with locations to ensure routing of 911 calls to the appropriate governing body with caller location.

The 911 database provider bills each governing body for maintenance of their lines in the 911 database, as allowed by a tariff filed with the Oklahoma Corporation Commission (OCC).⁴ The database provider has suggested that telephone service providers are responsible for the accuracy of their own customer information in the database. Database maintenance billings paid by the City have totaled approximately \$430,000 annually from 2011 through 2021.

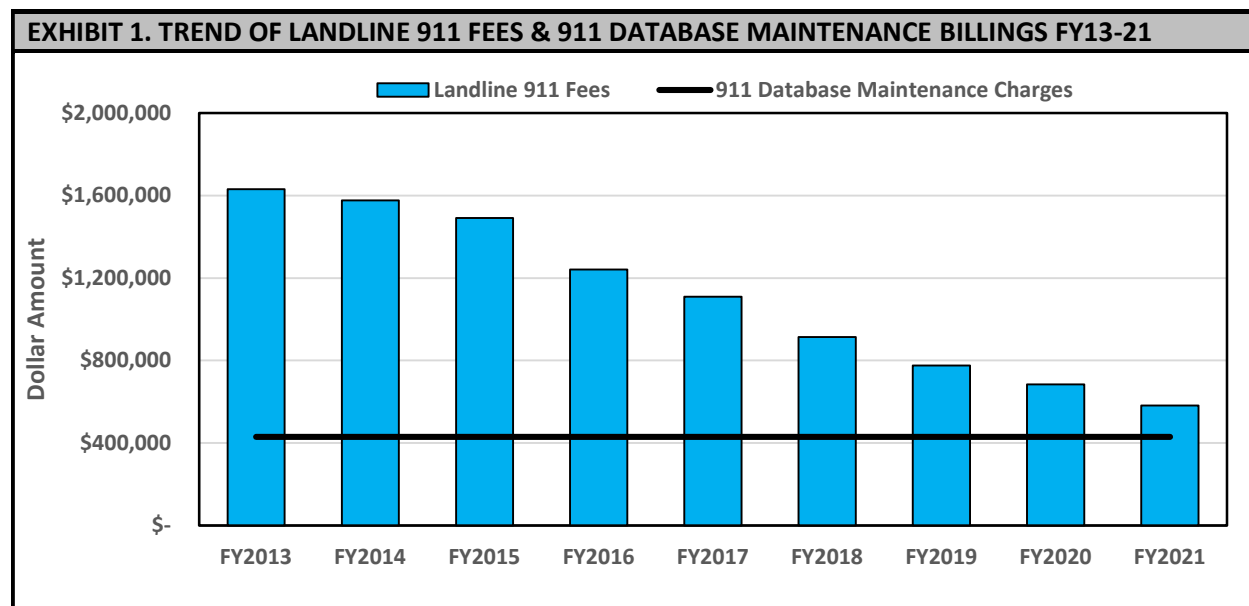
¹ 63 O.S. §2814 allows municipalities to impose an emergency telephone fee on traditional landlines. OKC Municipal Code §15-74 sets a 911 fee at 3% of the basic telephone service bill rate, while §15-75 requires the fee to be collected monthly from customers by service providers and remitted to the City.

² 63 O.S. §2865 imposes a \$0.75 per month fee on each internet-based and wireless phone line and a \$0.75 per transaction fee on each prepaid wireless transaction, while §2866 requires the fee to be collected monthly from customers by service providers and remitted to the OTC. §2866 further requires the OTC to proportionately allocate collected 911 fees to local governments based on the latest Federal Decennial Census population. However, the OTC instead distributes collected 911 fees based on population amounts obtained annually by the Oklahoma 911 Management Authority from a vendor and confirmed with cities, towns, and counties.

³ 63 O.S. §2846 describes this requirement for all telephone service providers.

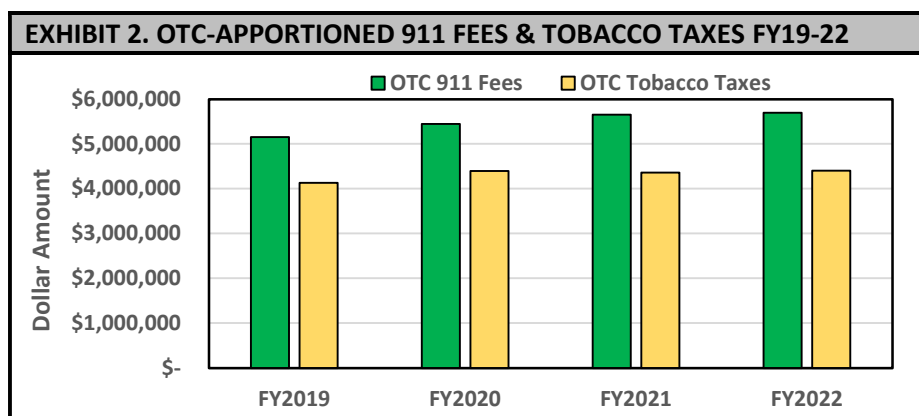
⁴ The tariff filed with the OCC provides for the 911 database provider to bill \$95 per thousand phone lines in the 911 database monthly.

Landline customers and related 911 fees have significantly declined and continue to decrease steadily with many telephone service providers moving customers to internet-based technology and many customers also moving solely to wireless technology. 911 fees received by the City directly from landline telephone service providers have decreased significantly from 2013 through 2021. However, billings for 911 database maintenance have remained constant, as illustrated in Exhibit 1 below.



SOURCE: PeopleSoft Financial system landline 911 fee account balances & monthly 911 database provider billings per thousand phone lines.

Tobacco excise taxes, like internet-based and wireless telephone 911 fees, are collected from vendors within the State by the OTC and apportioned to the City. The OTC allocates tobacco excise taxes in accordance with several State statutes⁵ to various recipients, including cities and counties. Consistent with the trend towards



SOURCE: PeopleSoft Financial system OTC 911 fee & tobacco excise tax account balances.

increased use of internet-based and wireless phone technology previously discussed, OTC 911 fee apportionments have increased steadily over the last four fiscal years, averaging around \$5.5 million annually, while OTC tobacco excise tax apportionments have been relatively flat for the same period, averaging around \$4.3 million annually, as illustrated in Exhibit 2 above.

⁵ 68 O.S. Articles 3 and 4 authorize the levy, assessment, collection, payment, and allocation of cigarette and tobacco product taxes, respectively.

The City Treasurer's Office (Finance) is responsible for collecting and monitoring landline 911 fees remitted directly to the City by providers and monitoring 911 fee and tobacco excise tax apportionments received by the City from the OTC. The Information Technology Department (Information Technology) is responsible for paying City 911 database maintenance billings.

SCOPE & METHODOLOGY

Procedures performed during this audit included interviews of personnel from various City departments and representatives from telephone service providers, the OTC, the Oklahoma 911 Management Authority (OK911MA), the Oklahoma Corporation Commission (OCC), and regional local government associations; review and analysis of relevant City Ordinances, State Statutes, and the 911 database provider's tariff filed with the OCC; consultation with in-house and external legal counsel; review and analysis of landline 911 fees, the 911 database, and related bills from the 911 database provider; and recalculation of 911 fees and tobacco excise taxes apportioned by the OTC.

We did not audit the accuracy or completeness of landline 911 fees collected from customers by telephone service providers or 911 fees and tobacco excise taxes collected by the OTC from individual telephone service providers or vendors, respectively.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). GAGAS requires that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our audit findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The following section of this report includes recommendations intended to provide constructive suggestions for improving procedures for monitoring 911 fee and tobacco excise tax receipts, and for ensuring the accuracy of 911 database provider billings. Each recommendation is immediately followed by *management's response*, which is also attached to this report in its entirety.

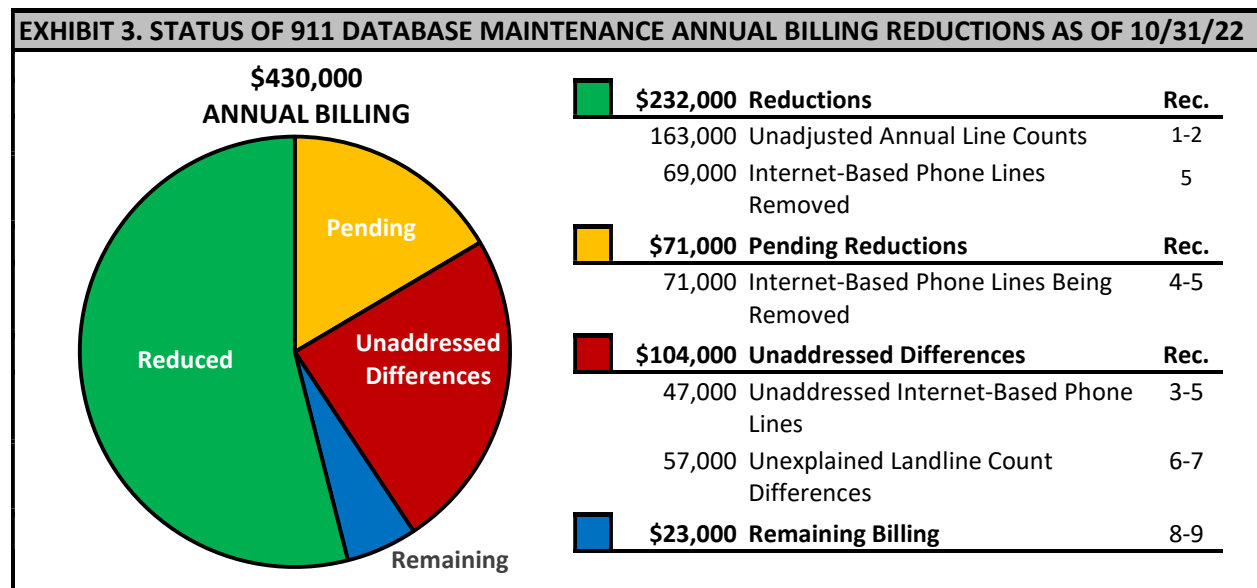
RESULTS OF WORK PERFORMED

The results of our audit indicate that, as of December 31, 2021, procedures are not in place to ensure landline 911 fees received by the City are reasonably complete or 911 database maintenance billings are reasonably accurate given landline 911 fee receipts; and 911 database maintenance charges have been significantly overbilled since 2012. Additionally, 911 fee apportionments from the OTC are not monitored for accuracy and completeness while recalculations to monitor the accuracy and completeness of tobacco excise tax apportionments from the OTC are not complete.

LANDLINE 911 FEE RECEIPTS & 911 DATABASE MAINTENANCE BILLINGS

The 911 database and related OCC-approved tariff were originally intended for emergency call routing from traditional landlines (vs internet-based phone lines).⁶ Therefore, line counts relating to landline 911 fees collected and remitted to the City and line counts billed by the 911 database provider for database maintenance should be reasonably comparable.⁷ However, the total lines billed (377,000) by the 911 database provider were nearly ten times more than our estimate of line counts relating to recorded City landline 911 fee receipts, indicating either potentially overbilled database maintenance charges or unremitted landline 911 fees.⁸

During this audit, several issues were identified that either have or are potentially resulting in overbilled 911 database maintenance charges. Issues that could be resolved have been through discussions with telephone service providers and the related billing reduced by the database provider accordingly. Other unresolved issues (e.g., tariff application to internet-based phone lines, inactive landline removal, etc.) will require management to work with the OCC, the database provider and relevant telephone service providers. A status of annual 911 database maintenance billing reductions since our work began with references to recommendations (Rec) for resolving these remaining issues are included in Exhibit 3 below.



⁶ Outside legal counsel advised that the tariff likely does not apply to internet-based phone technology based on statutory limitations on the OCC's regulatory authority but ultimately deferred to the OCC. The OCC Public Utility Division Director agreed that the OCC does not have regulatory authority for non-landline phone technology. The OCC Public Utility Division Director further stated that the tariff would likely not apply to non-landline phone technology because it was originally intended for landline telephone technology, but further research would be necessary to make a definitive determination.

⁷ The 911 database provider stated that line counts relating to landline 911 fee collections and line counts in the database will never exactly match because of entries included in the database for lines used to route internet-based phone line groups to service providers and route wireless phone line groups to cell towers but has not quantified how many of the line entries in the database are used for this purpose.

⁸ Service providers responsible for 30% of the City's landline 911 fee receipts for the month of December 2021 provided line counts with their 911 fee remittances. These line counts were used to estimate the line counts related to landline 911 fee receipts that did not include line counts with remittances.

Prior Overbillings of 911 Database Maintenance Charges

The annual 911 database maintenance charge was reduced by \$160,000 after 140,000 lines were removed based upon our initial inquiry of the database provider about the bill⁹. The tariff related to the bill requires the billed line count to be updated annually. However, the billed line count had not been updated since 2011. Information Technology paid the bill along with other, smaller 911-related bills without verifying the charges were for valid services, including verification that database maintenance charges were supported by counts of lines included in the database.

Prior year database line counts necessary to accurately quantify previous overbillings resulting from unadjusted annual line counts have not been requested but may be available from the database provider. Though unlikely, assuming a constant rate of decline in landlines since 2011 would result in estimated overbillings totaling approximately \$750,000. Estimated overbilled amounts relating to the 3 to 5 years preceding the recent adjustment range from \$390,000 to \$571,000, respectively.¹⁰

Recommendation 1

The City Manager's Office should consider working with the Municipal Counselor's Office and outside legal counsel to obtain actual prior year database line counts to accurately quantify previously overbilled database maintenance charges and pursue recovery.

The database provider's actual prior year line counts and related recoveries would be pursued through either mediation with assistance from the OCC's Consumer Services Division or a consumer complaint filing with the OCC based on advice from outside legal counsel.

City Manager's Office Response 1

Agree with modification. The City Manager sent a letter to a provider on June 26, 2023, requesting additional information to accurately quantify previously overbilled database maintenance charges and a meeting to discuss possibilities for recovery of the overbilled amounts. The course of action in the recommendation will be considered should these efforts prove unsuccessful.

Recommendation 2

Information Technology should work with the 911 database provider to ensure all 911-related billings are properly supported, including but not limited to, the database maintenance billing.

⁹ Additional line count/billing reductions totaling \$3,000 made by the database provider in October 2022, well after our initial inquiry, are included in the Unadjusted Line Counts total in Exhibit 3. \$1,000 of the reduction related to lines removed by another provider based on our work while the remaining \$2,000 reduction could not be attributed to any of our work specifically.

¹⁰ Outside legal counsel advised that recoveries would likely be limited to a period of 3 years from discovery, but the City could potentially advocate for a 5-year limit based upon O.S. §95 governing written contracts.

The 911 database should be obtained annually, and the database line counts confirmed to reasonably support the billing after assessment for reasonable accuracy given 911 fee payor landline counts as described in **Recommendation 9**.

Information Technology Response 2

Agree with recommendation - Information Technology will obtain the 911 database annually to produce tabulation of line counts and compare to 911-related billings.

911 Database Maintenance Billings for Internet-Based Phone Lines

The 911 database maintenance billing was reduced by another \$69,000 annually for internet-based phone lines removed by telephone service providers based on our work because the lines are maintained in a separate 911 database. However, annual charges of \$118,000 continue for two telephone service providers' internet-based phone lines. The 911 database provider reports that around \$71,000 of those charges are for lines that should be and are being removed by one of their subsidiaries because they are either inactive or belong in a separate database.

The remaining \$47,000 of annual charges relate to internet-based phone lines belonging to the 911 database provider. The 911 database provider states that "fixed" internet-based phone lines not "transferrable" to another physical address should be included in the 911 database. However, evidence has not been provided that such lines, whether "fixed" or not, should be subject to the landline tariff.

Prior year database line counts necessary to accurately quantify previous overbillings for internet-based phone lines recently removed, currently being removed, or potentially requiring removal have not been requested but may be available from the database provider. Though unlikely, assuming a constant number of these lines were included in the database during recent years would result in total estimated overbilled amounts ranging from \$561,000 over the last 3 years to \$935,000 over the last 5 years.

Recommendation 3

The City Manager's Office should work with the Municipal Counselor's Office to obtain a written opinion from the OCC regarding applicability of the 911 database provider's tariff to internet-based phone lines, including those considered "fixed".

City Manager's Office Response 3

Agree with recommendation. The City Manager sent a letter to the OCC on June 26, 2023, requesting a written opinion regarding the applicability of the 911 database provider's tariff to internet-based lines, including those considered "fixed".

Recommendation 4

Information Technology should work with the 911 database provider to ensure timely reduction of the 911 database billing for internet-based lines belonging to their subsidiary that are currently being removed from the database.

If the tariff does not apply to internet-based lines based on the OCC's opinion obtained through Recommendation 3, Information Technology should also work with the database provider to quantify other internet-based phone lines that should not be included in the 911 database. Any such lines deemed not subject to the tariff should be timely removed from the 911 database and related billing.

Information Technology Response 4

Agree with recommendation - Information Technology will work with the 911 database provider to request reduction of the 911 database billing for subsidiary internet-based lines already identified as well as any other internet-based phone lines that should not be included in the 911 database as a result of Recommendation 3.

Recommendation 5

The City Manager's Office should consider working with the Municipal Counselor's Office and outside legal counsel to obtain actual prior year database line counts to accurately quantify previously overbilled database maintenance charges for removed internet-based lines or those needing removal and pursue recovery.

The database provider's actual prior year line counts and related recoveries would be pursued through either mediation with assistance from the OCC's Consumer Services Division or a consumer complaint filing with the OCC based on advice from outside legal counsel.

City Manager's Office Response 5

Agree with modification. As stated in response 1, the City Manager sent a letter to a provider on June 26, 2023, requesting additional information and a meeting to discuss possibilities for recovery of overbilled amounts. The course of action in the recommendation will be considered should these efforts prove unsuccessful.

Other Potential Ongoing 911 Database Maintenance Overbillings or Unremitted 911 Fees

911 database landline counts for three telephone service providers, one of which is the 911 database provider, far exceed reported or estimated landline counts for 911 fees remitted to the City. Reported or estimated line counts relating to 911 receipts for these providers

represent about 25% of the total billed landlines assigned to these providers in the 911 database. These differences have not been completely explained despite numerous requests.

Limited explanations provided for the differences, based on our work, include:

- The 911 database provider believes over half of the difference relates to inactive lines belonging to the other two telephone service providers and claims to have no authority to require those providers to remove the lines. The database provider has suggested asking the OCC to send a letter to those telephone service providers requesting removal of those lines.
- As much as half of the database provider's difference may relate to lines sold to other telephone service providers for resale (resellers). However, reseller names have not been provided by the database provider to allow for quantification of this potential difference or confirmation of related 911 fee remittances.
- The 911 database provider reports that some telephone service providers' lines in the database are non-customer, non-taxable lines (e.g., lines used to route groups of non-landline phone lines). However, a quantification of this potential difference has not been provided by the database provider.

Although most of the excess lines in the 911 database likely indicate overbilled database maintenance charges for inactive lines, they could also indicate unremitted 911 fees for active lines. For example, based on our work:

- One telephone service provider confirmed and removed nearly 1,000 lines from the database¹¹.
- Another telephone service provider confirmed unremitted 911 fees for Oklahoma City customers in Canadian County, as discussed in the **Landline 911 Fee Remittance Monitoring** section (page 9).

Estimated annual 911 fees could be as much as \$659,000 if the remaining unexplained lines all relate to unremitted 911 fees. Estimated annual 911 database maintenance charge savings could be as much as \$57,000 if the remaining unexplained lines are all overbilled.

Recommendation 6

The City Manager's Office should work with the Municipal Counselor's Office to request that the OCC send a letter to these telephone service providers regarding the significant differences between their database landline counts and their 911 fee remittance landline counts, including requests that:

- Any inactive landlines currently included in the 911 database be identified and removed,
- Resellers with landlines in the database be identified and their line counts quantified,

¹¹ See footnote 9 on page 5.

- Non-taxable lines included in the database be identified, quantified, and explained, and
- Any significant remaining variances be quantified and explained.

City Manager’s Office Response 6

Agree with recommendation. The City Manager’s Office will work with the Municipal Counselor’s Office to request that the OCC send letters to the telephone providers regarding significant differences between their database landline counts and their 911 fee remittance landline counts, including that:

- *Any inactive landlines currently included in the 911 database be identified and removed,*
- *Resellers with landlines in the database be identified and their line counts quantified,*
- *Non-taxable lines included in the database be identified, quantified, and explained, and any significant remaining variances be quantified and explained.*

Recommendation 7

After excess lines have been removed and/or explained by these telephone service providers, Finance and Information Technology should work together to ensure the 911 database maintenance billing is reduced or unremitted 911 fees are pursued as appropriate. In consultation with the City Manager’s Office, consideration should also be given to quantification and recovery of any past overbilled and/or unremitted amounts identified.¹²

Finance Response 7

Agree with recommendation. After the actions included in the responses to Recommendations 5 and 6 are complete, Finance will partner with Information Technology to ensure the 911 database maintenance billing is reduced or unremitted 911 fees are pursued as appropriate. Finance will also work with the Municipal Counselor’s Office and the City Manager’s Office to recover past overbillings and/or unremitted amounts previously identified.

Information Technology Response 7

Agree with recommendation – See response from the Finance Department.

Landline 911 Fee Payor & 911 Database Line Count Comparisons

Landline 911 fee payor line counts are not compared to 911 database line counts to assess the overall completeness of 911 fee receipts or accuracy of database maintenance billings. As discussed in the **Prior Overbillings of 911 Database Maintenance Charges** section (page 4), the

¹² Recovery of overbilled amounts would be pursued as described in Recommendation 1. Recovery of unremitted amounts would be pursued as described in Recommendation 11.

911 database has not been obtained previously or used to verify the validity of 911 database maintenance billings.

Additionally, an annual census of customer lines is not provided to the City by telephone service providers as required by City ordinance¹³. Obtaining a customer line census annually would make those counts available for comparison to line counts obtained from the 911 database as discussed in **Recommendation 2**. Annual comparison of the customer line census and 911 database line counts would allow for assessment of *both* landline 911 fee receipt completeness *and* 911 database maintenance charge accuracy.

Given the work involved, the cost-effectiveness of such annual comparisons may diminish over time as Recommendations 3 through 7 above and any remaining differences are addressed¹⁴.

Recommendation 8

The City Treasurer's Office should conduct an annual census of all providers with Oklahoma City customers as required by City ordinance. The annual census should minimally include the providers' Company ID and/or Reseller ID (if applicable) with line counts by county and type (e.g., landline, internet-based, etc.).

Finance Response 8

Agree with recommendation. The City Treasurer's Office will conduct an annual census of providers paying 911 fees directly to the City to ensure it has a complete and current list beginning in January 2024. With the passage of HB 1590 on May 17, 2023, staff will assess the implications of the new law once it becomes effective on November 1, 2023, prior to implementing the recommendation.

Recommendation 9

Finance and Information Technology should work together to annually compare the results of the annual census of provider lines obtained as included in **Recommendation 8** to line counts from the 911 database obtained as included in **Recommendation 2**.

Significant differences should be investigated with the 911 database provider and other telephone service providers, as necessary, to determine if 911 database counts and related billings need to be adjusted and/or unremitted 911 fee collections should be pursued.

¹³ Municipal Code Article IV, §15-74(a) requires local phone companies with customers in the City to provide a census of customers to the City no later than 60 days after the first day of each calendar year.

¹⁴ House Bill 1590 currently under consideration at the State legislature, if enacted into law, would effectively repeal 63 O.S. §2814 allowing municipalities to impose an emergency telephone fee on traditional landlines and require collection of a statutorily set 911 fee on landlines by the OTC, as currently occurs for internet-based and wireless telephone lines.

Such annual comparisons should continue for as long as the value derived from potentially missing 911 fees compared to the work involved is deemed cost effective or City landline 911 fee receipts cease due to legislative changes.

Finance Response 9

Agree with recommendation. Finance will work with Information Technology annually to compare results of the Treasurer's annual census as mentioned in Recommendation 8, and line counts for the 911 database obtained by Recommendation 2 beginning in January 2024. Significant differences will be investigated. With the passage of HB 1590 on May 17, 2023, staff will assess the implications of the new law once it becomes effective on November 1, 2023, prior to implementing the recommendation.

Information Technology Response 9

Agree with recommendation - See response from the Finance Department.

Landline 911 Fee Remittance Monitoring

Landline counts are not submitted to the City Treasurer's Office by all telephone service providers with their 911 fee remittances and submitted counts are not reviewed for reasonableness. Only five of 32 telephone service providers remitting 911 fees in December 2021 submitted line counts with their remittances. Additionally, unremitted 911 fees from a telephone service provider for City residents living in Canadian County went undetected since 2012, despite the obvious omission of those lines from counts included on forms submitted with their remittances.

These 911 fees (previously remitted to the incorrect governing body by the provider) are now being remitted to the City because of our inquiry. Though the fees now only amount to around \$5,000 annually, previous unremitted amounts that went undetected were likely more. Past amounts remitted to the incorrect governing body have not been provided but a conservative estimate of the total based on the current amount ranges from approximately \$14,000 for the last 3 years to \$24,000 for the last 5 years, plus penalties¹⁵.

Standards have not been established for what information telephone service providers must submit with their 911 fee remittances. However, City ordinance currently allows the City Treasurer to determine the form of required reporting¹⁶.

¹⁵ Outside legal counsel advised that 63 O.S. § 2815 (A) requires providers to remit collected 911 fees to the governing body no later than 30 days after the close of the month in which such fees were collected and imposes a penalty of 10% of the original unremitted fee that is due to the governing body on the first day of each month the fees remain delinquent.

¹⁶ Municipal Code Article IV. §15-75(a) requires that a return for the preceding month shall be filed with the City Treasurer in such form as the City Treasurer shall require on or before the last day of each month. 63 O.S. § 2815 (B) requires providers file a return with the governing body on or before the last day of each month in a form agreed to by the governing body and providers.

Recommendation 10

The City Treasurer's Office should periodically review line counts included on submitted remittance forms to reasonably assess the completeness of related 911 fee collections. Consideration should also be given to requiring line counts be submitted with all 911 fee remittances exceeding a significant dollar threshold to allow for such reviews of those remittances periodically.

Finance Response 10

Agree with recommendation. The City Treasurer's Office will encourage line counts to be submitted with monthly 911 payments, with line counts being compared at least annually through the new annual census process of Response 8 beginning in January 2024. With the passage of HB 1590 on May 17, 2023, staff will assess the implications of the new law once it becomes effective on November 1, 2023, prior to implementing the recommendation.

Recommendation 11

The City Manager's Office should consider working with the Municipal Counselor's Office and outside legal counsel to quantify prior year 911 fees remitted to the incorrect governing body for City residents in areas identified during this audit and pursue recovery. Recovery would be pursued through District Court action against the provider based on advice from outside legal counsel.

City Manager's Office Response 11

Agree with modification. The City Manager sent a letter to a provider on June 26, 2023, to request a meeting to discuss possible recovery of 911 fees remitted to the incorrect governing body. The course of action included in the recommendation will be considered should these efforts prove unsuccessful.

911 FEES RECEIVED FROM THE OKLAHOMA TAX COMMISSION

The accuracy and completeness of 911 fee apportionments received from the OTC are not monitored. As discussed in the **Background** section (page 1), internet-based and wireless telephone 911 fees are collected and apportioned in accordance with State statute to local governments Statewide by the OTC. The City Treasurer's Office does not recalculate the apportionments to confirm the amounts received are materially accurate and complete.

Totals of OTC 911 fee collections and apportionments are available in an annual apportionment report published by the OTC, while total monthly apportionments are available on the State's

Oklahoma Taxpayer Access Point (OKTAP) website. Annual population amounts used to apportion the 911 fee collections are available from the OK911MA upon request.

The OTC collected \$37 million in 911 fees and apportioned \$34 million to local governments across the State during fiscal year 2022, including \$5.7 million to the City. As depicted in Exhibit 2 of this report, 911 fee apportionments received from the OTC continue to grow. Even minor errors in the OTC apportionment could significantly impact the City's apportionment because of the total collected and apportioned dollar amounts involved.

Recommendation 12

The City Treasurer's Office should recalculate the City's share of 911 fees apportioned by the OTC annually using OTC apportionment totals, OKTAP monthly collection totals, and population amounts obtained from the OK911MA. The recalculated City share should be compared to actual tax collections for reasonableness and significant variances investigated with the OTC.

Finance Response 12

Agree with recommendation. The City Treasurer's Office will recalculate the City's share of 911 fees annually, and work with the Tax Commission and OK911MA on resolving any significant variances.

911 Fees Potentially Unremitted to the OTC & Not Apportioned to the City

Statewide phone lines included in the 911 database for one telephone service provider far exceeded estimated lines for which the State received 911 fees from that provider.

Telephone service provider line counts included in the 911 database were more than four times the number of estimated lines for which 911 fees were remitted to the OTC¹⁷.

The telephone service provider is the same subsidiary of the 911 database provider that is reportedly removing Oklahoma City internet-based phone lines from the database currently as discussed in the **911 Database Maintenance Billings for Internet-Based Phone Lines** section (page 5). As discussed previously, excess phone lines in the 911 database compared to remitted 911 fee line count estimates indicates either potentially overbilled 911 database maintenance charges or unremitted 911 fees.

As the telephone service provider has reported for its Oklahoma City lines, excess Statewide lines in the database may also need to be removed from the 911 database and related local government billings Statewide reduced. Overbillings to the City for these lines are addressed in

¹⁷ This provider's 911 fees are remitted to the OTC under its parent company's name and the parent company remits 911 fees to the OTC under several different company names. Our estimates are based on the company name the subsidiary stated their fees would be associated with in a November 2021 OTC summary of 911 fee receipts provided by the OK911MA and are calculated by dividing total receipts by the net amount of the statutory fee per line (\$.0735) that is to be remitted.

Recommendation 4 above. However, if these lines are active and should result in 911 fees remitted to the OTC, the City's estimated apportionment of those fees could be as much as \$187,000 annually.

Recommendation 13

The City Treasurer's Office should work with the OK911MA to ensure:

- The telephone service provider removes inactive phone lines from the 911 database and pursuit of related overbilled 911 database maintenance charges by other local governments is encouraged,
- Remaining lines in the 911 database are reasonable compared to the telephone service provider's 911 fees remitted to the OTC, and
- Any remaining unremitted 911 fee collections are pursued, including consideration of quantification and recovery of past amounts.

Finance Response 13

Agree with recommendation. The City Treasurer's Office will work with the OK911MA to ensure inactive provider phone lines are removed from the database, lines remaining in the database are reasonable compared to 911 fees remitted by the provider to the OTC, and unremitted 911 fees, if any, including any past amounts are pursued.

TOBACCO EXCISE TAXES RECEIVED FROM THE OKLAHOMA TAX COMMISSION

Recalculations of OTC tobacco excise tax apportionments are limited to verifying the City's share of the total apportioned to cities and counties. OTC tobacco excise tax apportionments are governed by State statutes as discussed in the **Background** section (page 2). Besides the amount apportioned to cities and counties, tobacco excise taxes are apportioned to 14 other State funds at various statutory rates. Totals of OTC tobacco excise tax collections and apportionment details are available in an annual apportionment report published by the OTC.

The OTC collected and apportioned \$327 million in tobacco excise taxes during fiscal year 2022. City Treasurer's Office recalculations confirmed the accuracy and completeness of \$4.4 million apportioned to the City of \$21 million apportioned to cities and counties by the OTC; but did not confirm the accuracy and completeness of OTC's total cities and counties apportionment. Even minor errors in the OTC apportionment calculation could significantly impact the City's apportionment because of the complexity of the apportionment calculation and total dollar amounts involved.

Recommendation 14

The City Treasurer's Office should recalculate the entire OTC tobacco excise tax apportionment annually, including the total apportioned to cities and counties, using OTC apportionment totals and apportionment rates in the governing State statute. Significant variances identified through the recalculation that affect the City's share of the taxes should be investigated with the OTC.

Finance Response 14

Agree with recommendation. The City Treasurer's Office will work with the OTC and any other relevant state agencies to get additional details for tobacco tax payments to validate the total calculation. The City Treasurer's Office will work with the OTC on resolving any significant variances.

ATTACHMENT A

Management Responses

- City Manager's Office/Finance Department
- Information Technology Department



MEMORANDUM

The City of
OKLAHOMA CITY



TO: Matt Weller, City Auditor

THROUGH: Craig Freeman, City Manager

FROM: Brent Bryant, Finance Director

DATE: June 29, 2023

SUBJECT: 22-03 911 Fee Receipt, 911 Database Charges, & Tobacco Excise Tax Receipts Audit

The following are management's responses to recommendations for the City Manager's Office and Finance Department outlined in the 911 Fee Receipt, 911 Database Charges, & Tobacco Excise Tax Receipts Audit.

1. City Manager's Office Recommendation 1: Agree with modification. The City Manager sent a letter to a provider on June 26, 2023, requesting additional information to accurately quantify previously overbilled database maintenance charges and a meeting to discuss possibilities for recovery of the overbilled amounts. The course of action in the recommendation will be considered should these efforts prove unsuccessful.
2. City Manager's Office Recommendation 3: Agree with recommendation. The City Manager sent a letter to the OCC on June 26, 2023, requesting a written opinion from the OCC regarding the applicability of the 911 database provider's tariff to internet-based phone lines, including those considered "fixed".
3. City Manager's Office Recommendation 5: Agree with modification. As stated in response 1, the City Manager sent a letter to a provider on June 26, 2023, requesting additional information and a meeting to discuss possibilities for recovery of the overbilled amounts. The course of action in the recommendation will be considered should these efforts prove unsuccessful.
4. City Manager's Office Recommendation 6: Agree with recommendation. The City Manager's Office will work with the Municipal Counselor's Office to request that the OCC send letters to the telephone providers regarding significant differences

between their database landline counts and their 911 fee remittance landline counts, including that:

- Any inactive landlines currently included in the 911 database be identified and removed,
- Resellers with landlines in the database be identified and their line counts quantified,
- Non-taxable lines included in the database be identified, quantified, and explained, and any significant remaining variances be quantified and explained.

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5. Finance Department Recommendation 7: Agree with recommendation. After the actions included in the responses to Recommendations 5 and 6 are complete, Finance will partner with Information Technology to ensure the 911 database maintenance billing is reduced or unremitted 911 fees are pursued as appropriate. Finance will also work with the Municipal Counselor's Office and the City Manager's Office to recover past overbillings and/or unremitted amounts previously identified.
6. Finance Department Recommendation 8: Agree with recommendation. The City Treasurer's Office will conduct an annual census of providers paying 911 fees directly to the City to ensure IT has a complete and current list beginning in January 2024. With the passage of HB 1590 on May 17, 2023, staff will assess the implications of the new law once it becomes effective on November 1, 2023, prior to implementing the recommendation.
7. Finance Department Recommendation 9: Agree with recommendation. Finance will work with Information Technology annually to compare results of the Treasurer's annual census as mentioned in Recommendation 8, and line counts for the 911 database obtained by Recommendation 2 beginning in January 2024. Significant differences will be investigated. With the passage of HB 1590 on May 17, 2023, staff will assess the implications of the new law once it becomes effective on November 1, 2023, prior to implementing the recommendation.
8. Finance Department Recommendation 10: Agree with recommendation. The City Treasurer's Office will encourage line counts to be submitted with monthly 911 payments, with line counts being compared at least annually through the new annual census process of Response 8 beginning in January 2024. With the passage of HB 1590 on May 17, 2023, staff will assess the implications of the new law once it becomes effective on November 1, 2023, prior to implementing the recommendation.
9. City Manager's Office Recommendation 11: Agree with modification. The City Manager sent a letter to a provider on June 26, 2023, to request a meeting to discuss possible recovery of 911 fees remitted to the incorrect governing body. The course of action included in the recommendation will be considered should these efforts prove unsuccessful.

10. Finance Department Recommendation 12: Agree with recommendation. The City Treasurer's Office will recalculate the City's share of 911 fees annually, and work with the Tax Commission and OK911MA on resolving any significant variances.
11. Finance Department Recommendation 13: Agree with recommendation. The City Treasurer's Office will work with the OK911MA to ensure inactive provider phone lines are removed from the database, lines remaining in the database are reasonable compared to 911 fees remitted by the provider to the OTC, and unremitted 911 fees, if any, including past amounts are pursued.
12. Finance Department Recommendation 14: Agree with recommendation. The City Treasurer's Office will work with the OTC and any other relevant state agencies to get additional details for tobacco tax payments to validate the total calculation. The City Treasurer's Office will work with the OTC on resolving any significant variances.

Thank you for your professional review of this program.



MEMORANDUM

The City of
OKLAHOMA CITY



TO: Matt Weller, City Auditor

THROUGH: Craig Freeman, City Manager *CF*

FROM: Schad Meldrum, Information Technology Director *WSM*

DATE: June 26, 2023

SUBJECT: IT Response to the City Auditor Report: "911 FEE RECEIPTS, 911 DATABASE CHARGES & TOBACCO EXCISE TAX RECEIPTS AUDIT"

Recommendation (2)

Agree with recommendation— Information Technology will obtain the 911 database annually to produce tabulation of line counts and compare to 911-related billings.

Recommendation (4)

Agree with recommendation – Information Technology will work with the 911 database provider to request reduction of the 911 database billing for subsidiary internet-based lines already identified as well and any other internet-based phone lines that should not be included in the 911 database as a result of Recommendation 3.

Recommendation (7)

Agree with recommendation – See response from the Finance Department.

Recommendation (9)

Agree with recommendation – See response from the Finance Department.