



Riverhead Fire District

Internal Controls Over Professional Services and Information Technology

Report of Examination

Period Covered:

January 1, 2010 — September 30, 2011

2012M-106



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

August 2012

Dear District Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of Riverhead Fire District, entitled Internal Controls Over Professional Services and Information Technology. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

The Riverhead Fire District (District) covers approximately 48 square miles in the Towns of Riverhead, Southampton, and Brookhaven, and serves approximately 22,000 residents. The District is governed by a five-member Board of Fire Commissioners (Board). The Board is responsible for the overall financial management of the District, including establishing internal controls and monitoring controls to ensure that assets are properly safeguarded. The District's adopted budget for 2011 was \$4,504,104, funded primarily with real property taxes.

Scope and Objective

The objective of our audit was to examine the District's internal controls over professional services and information technology (IT) for the period January 1, 2010 to September 30, 2011. Our audit addressed the following related questions:

- Did District officials develop adequate procedures and/or processes over procurement to ensure the District is obtaining the desired quality of professional services at the lowest cost?
- Are internal controls over IT adequately designed and operating effectively?

Audit Results

The Board did not develop adequate procedures for the procurement of professional services. As a result, District officials did not solicit competitive proposals for any of the nine professionals we tested, who were paid a total of \$787,697. In addition, the District paid three of the nine professionals \$144,831 without written agreements or resolutions setting forth the rates of compensation, and paid four of the remaining six professionals a total of \$301,860 for services based on agreements or Board resolutions with open-ended terms. Therefore, District officials have little assurance that the professional services were procured in the most prudent and economical manner.

Internal controls over IT need to be improved. The Board has not adopted a computer use policy or a breach notification policy, and three individuals have access rights to perform incompatible duties in the procurement process. In addition, the Secretary/Treasurer can modify existing purchase orders and the District's CPA can create warrants, both of which are duties that are incompatible with their normal responsibilities. Furthermore, District officials provide unrestricted remote access to four service providers, the District manager and the Secretary/Treasurer, even though they do not have a remote access policy or agreements to outline remote access rules. Finally, District officials do not

produce and review audit logs to detect unauthorized activities. As a result, the District's IT system and electronic data are subject to an increased risk of loss or misuse.

Comments of Local Officials

The results of our audit and recommendations have been discussed with District officials and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, District officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comments on the issues raised in the District's response letter.

Introduction

Background

The Riverhead Fire District (District) covers approximately 48 square miles in the Towns of Riverhead, Southampton, and Brookhaven, and serves approximately 22,000 residents. The District is a district corporation of the State, distinct and separate from the Towns, and is governed by an elected five-member Board of Fire Commissioners (Board). The District responded to 1,095 alarms in 2010 and 1,091 alarms in 2011. The District consists of six companies and 175 active firefighters.

The Board is responsible for the overall financial management of the District. The Board has the power to levy taxes on real property located in the District and to issue debt. The District Secretary/Treasurer (Secretary/Treasurer) is the District's chief fiscal officer and is responsible for the receipt, custody and disbursement of District funds, maintaining financials records, and preparing monthly and annual reports.

The Board adopts a budget annually, which is filed with the Towns of Riverhead, Southampton and Brookhaven. The District's adopted budget for 2011 was \$4,504,104, funded primarily with real property taxes.

Objective

The objective of our audit was to examine the District's internal controls over professional services and information technology (IT). Our audit addressed the following related questions:

- Did District officials develop adequate procedures and/or processes over procurement to ensure the District is obtaining the desired quality of professional services at the lowest cost?
- Are internal controls over IT adequately designed and operating effectively?

Scope and Methodology

We examined the District's internal controls over professional services and IT for the period January 1, 2010 to September 30, 2011.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix C of this report.

**Comments of
District Officials and
Corrective Action**

The results of our audit and recommendations have been discussed with District officials and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, District officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comments on the issues raised in the District's response letter.

The Board has the responsibility to initiate corrective action. Pursuant to Section 181-b of the Town Law, a written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and forwarded to our office within 90 days. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. The Board should make the CAP available for public review in the Secretary/Treasurer's office.

Professional Services

The Board is responsible for designing internal controls that help safeguard the District's assets, ensure the prudent and economical use of District moneys, and protect against favoritism, extravagance and fraud. Although the Board is not legally required to mandate the use of a competitive process when procuring professional services, using competition, such as a request for proposal (RFP) process, helps to ensure that the District receives the desired services for the best price. It is important for the Board to enter into a written agreement or pass a resolution for professional services to provide the District and the professional service provider with a clearly defined and mutually agreed-upon basis for compensation. This includes defining the services to be provided, the delivery timeframes and the amount of compensation.

The District paid 19 professional service providers \$891,378 during the audit period. Its procurement policy does not require the use of competition when seeking professional services. We reviewed all nine professional services providers who received at least \$20,000 in payments during our audit period¹ and found that District officials did not issue RFPs for the services provided by any of the nine professionals, who were paid a total of \$787,697. The payments included \$287,887 for legal services, \$265,219 for engineering consulting services, \$158,804 for computer/communication services, and \$75,787 for physician services.

In addition, the District paid three of the nine professionals \$144,831 without written agreements setting forth the scope of services to be performed or the rates of compensation. Although the Board adopted resolutions appointing the three professionals, the resolutions did not state the compensation to be paid.

The District paid four of the remaining six professionals \$301,860 based on written agreements or Board resolutions with open-ended terms. For example, two law firms were paid \$143,055. Although the retainer letters and/or Board resolutions contained fee schedules showing the hourly rates of law members, there were no authorized maximum costs or indications how long it would take to complete the work. Our review of the three highest payments made to each of these law firms showed that payments to one of these firms included

¹ We tested this sample to determine whether contracts were awarded after soliciting competition, whether the Board authorized the contracts, and whether the professionals were compensated in accordance with agreed upon rates.

fees for two individuals, totaling \$558, that were not included in the retainer letter or Board resolution.

Without a competitive process, or a clear understanding of the services to be provided, delivery timeframes, and the amounts of compensation, the District may not be procuring professional services in the most prudent and economical manner. In addition, District officials do not have assurance that the rates charged and services provided are proper and necessary, and have only limited control over the total cost of the services.

Recommendations

1. The Board should consider amending the District's procurement policy to include use of competitive methods when procuring professional services.
2. The Board should ensure the District has written agreements or Board resolutions for all professionals that define the type of service to be provided, the delivery timeframes and the amount of compensation.

Information Technology

Computerized data is a valuable resource that District officials rely on to make financial decisions and report to State agencies. If the computers on which this data is stored fail, or the data is lost or altered, either intentionally or unintentionally, the results could range from inconvenient to catastrophic. Even small disruptions can require extensive time and effort to evaluate and repair. For this reason, it is important that District officials control and monitor computer system access and usage, and adopt a breach notification policy. District officials must ensure system users do not have incompatible access rights, and limit and control remote access to the District's information technology (IT) system. District officials should also review audit logs to detect any unauthorized activities that could occur.

The Board has not adopted a computer use policy or a breach notification policy, and four individuals have access rights to perform duties that are incompatible with their job duties. Furthermore, District officials provide unrestricted remote access to four service providers and two employees, and the District does not have a remote access policy or agreements to outline remote access rules. Finally, District officials do not review audit logs. As a result, the District's IT system and electronic data are subject to an increased risk of loss or misuse.

Computer Use Policy

Computer policies and procedures address key security areas such as acceptable computer use, data and virus protection, password security, disposing of and sanitizing equipment, remote access and acceptable Internet usage. Policies must be implemented, enforceable, concise, easy to understand, and should balance IT protection with employees' productivity. District management is responsible for establishing procedures that outline how to carry out policy requirements and define mechanisms to enforce compliance.

Although the Board has adopted an email use, and computer network and Internet use policies, it has not adopted a comprehensive computer use policy to address such areas as data and virus protection, password security, disposing of and sanitizing equipment, and remote access. Although comprehensive, well thought-out computer use policies do not guarantee the safety of the District's electronic information, the lack of such policies significantly increases the risk that hardware and software systems and the data they contain may be lost or damaged by inappropriate use.

Breach Notification

The Board should adopt a breach notification policy² to detail how District officials would notify individuals whose private information was, or is reasonably believed to have been, acquired by a person without a valid authorization. The disclosure should be made in the most expedient time possible, consistent with the legitimate needs of law enforcement or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

The Board has not adopted a breach notification policy. As a result, in the event that private information is compromised, District officials and employees may not be prepared to notify affected individuals.

User Access

The Board is responsible for establishing policies and procedures to ensure that user access rights to the District's IT resources are appropriately restricted. To provide for a proper segregation of duties, a financial software application should allow users access to only those computerized functions that are consistent with their job responsibilities, and should prevent users from being involved in multiple aspects of financial transactions.

The District uses a software package to process financial transactions. This financial software consists of modules that segregate various financial recording and reporting processes. Access privileges within the financial software include the ability to add, view and modify transactions within these modules.

The Board has not established comprehensive policies and procedures to ensure that a proper segregation of duties is maintained. As a result, the District manager, Secretary/Treasurer and account clerk typist all have access rights that allow them to request, approve and authorize purchases. This includes the ability to add/edit vendor/recipients and to modify existing purchase orders. Furthermore, the Secretary/Treasurer's ability to modify existing purchase orders is incompatible with his existing job duties. Finally, the District's CPA has the ability to create warrants, which is incompatible with her responsibilities.

The identified incompatible duties and failure of District officials to examine the audit logs (see audit logs section, below) could allow these individuals to initiate improper transactions and misappropriate funds without detection. Given that virtually all District financial records and reports are computer generated, the risk is substantial.

² State Technology Law section 208(8) requires cities, counties, towns, villages and "other local agencies" to develop an information breach notification policy that is consistent with section 208. It is not clear that the Legislature intended fire districts to be included within the scope of the term "other local agencies". Nonetheless, even in the absence of a clear statutory requirement, we believe it is good practice for fire districts to adopt such a policy to ensure that affected residents are notified regarding information breaches.

Remote Access

Remote access is the ability to access the District's computer system from the Internet or other external source. Remote access must be controlled, monitored, and tracked so that only authorized individuals are allowed to access the District's computer system. It is important that the Board adopt policies and procedures that address who is given remote access, how remote access is granted, and how remote access is monitored and controlled. The Board is responsible for ensuring that remote access agreements are in place with all parties that access the system remotely.

The District provides remote access to four service providers, the District manager and the District Secretary/Treasurer. However, the Board has not established policies or procedures to monitor or control remote access or entered into remote access agreements with these individuals. Once remote access is granted to the system, users have unrestricted access and their activities are not monitored, nor are logs of remote access activity reviewed (see audit logs section, below).

When remote access is not monitored and controlled, data could be manipulated and errors and irregularities could occur and go undetected and uncorrected. These internal control weaknesses could lead to the loss of important financial data and cause serious interruption to the District's operations.

Audit Logs

An audit log provides information such as the identity of each person who has accessed the system, the time and date of the access, what activity occurred, and the time and date of log off. Ideally, a manager should review these logs on a routine basis to monitor the activity of users who access the District's applications and data. Reviewing audit logs help accomplish several security related objectives, including individual accountability, reconstructing events, intrusion detection and problem monitoring.

Although the District's accounting software allows for certain audit log reports to be generated, District officials have failed implement procedures to periodically produce and review these audit logs. As a result, their ability to detect and address unauthorized activities is limited.

Recommendations

3. The Board should adopt a comprehensive computer use policy that addresses data and virus protection, password security, disposing of and sanitizing equipment, and remote access.
4. The Board should adopt an information breach notification policy.

5. The Board should establish policies and procedures to ensure that a proper segregation of duties is maintained through the assignment of user access rights.
6. District officials should review and revise user access rights to the financial software relative to employees' job descriptions to ensure that users have access only to necessary functions within the scope of their responsibilities.
7. The Board should develop policies and procedures for controlling remote access to the computer system data and defining who can access the system, the methods to gain access, and the responsibility to review remote access logs.
8. The Board should ensure that remote access agreements are in place for all applicable individuals.
9. District officials should implement procedures to periodically produce and review audit logs.

APPENDIX A

RESPONSE FROM DISTRICT OFFICIALS

The district officials' response to this audit can be found on the following pages.

BOARD OF COMMISSIONERS

DENNIS HAMILL, Chairman
EDWARD CAREY JR., Vice-Chairman
WILLIAM C. KELLY
MARK CONKLIN
JOHN TRADESKI JR.



RIVERHEAD FIRE DISTRICT

540 Roanoke Avenue
Riverhead, New York 11901

631-603-3671
Fax: 631-727-7046

FRANK DARROW
District Manager

ROBERT ZAWESKI
Secretary/Treasurer

August 8, 2012

State of New York
Office of the State Comptroller
Division of Local Government and School Accountability
New York State Office Building, Room 3A10
250 Veterans Memorial Highway
Hauppauge, New York 11788-5533

Attn: Ira McCracken, Chief Examiner, Local
Government and School Accountability

Re: Riverhead Fire District
Report of Examination for the Period of January 1, 2010 to September
30, 2011

Dear Mr. McCracken:

The Board of Fire Commissioners of the Riverhead Fire District acknowledges the preliminary draft report prepared by your office with regard to the audit of the District for the period of January 1, 2010 to September 30, 2011 relative to Internal Controls Over Professional Services and Information Technology. We have had an opportunity to review the report, and to have an exit interview with your local representatives on August 2, 2012.

The Board is pleased to see the report contains no findings or suggestion of fiscal irresponsibility, financial loss or misappropriation by the District, its Board or its Officers and no finding or suggestion that any public funds entrusted to the District, its Board and its Officers were not fully accounted for, or not properly used at all times for District purposes and business. The District acknowledges that the results and recommendations of the audit are intended as resources for the District to use going forward to more effectively manage operations in meeting the expectations of the residents of the District. It is also noted by the District that the main point of the report and its recommendations pertain to system

process, guidelines and policy changes geared toward achieving the very same objectives sought both by your office and the District, but which have been accomplished by different methods and policies during the audit period. We also wish to note that a number of the recommended actions have already been taken by the District

Following are the Districts response to the specific findings and recommendations contained in the preliminary draft report:

I. Professional Services

The District notes that Section 104-b and 103 of the General Municipal Law makes it clear that professional services are exempt from competitive bidding. Professional services must be chosen based on accountability, reliability, skill, responsibility, education and training, judgment, integrity, and moral worth. These qualifications are not necessarily found in the individual or company that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures. The Board has procured professional services on the recommendations of the attorney for the District, past experience with vendors and recommendations from other Fire Districts. The District used comparative pricing from past vendors and/or additional quotations. The District has rate schedules for all professional services and all vendors were compensated according to these rate schedules. It is also noted that the Board regularly monitors the cost of these services and audits all invoices prior to payment. The Board is confident that professional services were obtained to provide the knowledge and skill needed in each instance at a fair price.

See
Note 1
Page 18

It should also be noted that the period under examination was exceptional relative to these services. It should be anticipated that professional services going forward will not be required at the scope or expense of this period. The largest expense related to the claims against the Architect for the new headquarters and the General Contractor for the same. The arbitration with the Architect is complete and the construction claims may be settled.

During the period the District was subject to Human Rights claims.

It should be noted that matters such as Human Rights claims, arbitration with an Architect involving malpractice claims and complex municipal construction claims require a unique expertise by the professionals representing the District.

Human Rights claims must be answered in a very short period of time. Not every attorney has the skills or experience to appear before the Human Rights Commission. It is a good practice to have counsel on retainer to overview personnel issues (ie: civil service, disciplinary proceedings, etc.) before they mature into litigation. Selecting counsel who can assist the District on an ongoing basis and is qualified to deal with litigation on short notice when it occurs is prudent and cost effective.

The same analysis can be made for construction claims/litigation. In such matters Special Counsel must be supported by an Architect who is competent to testify against both the prior architect and the general contractor. Further the consulting architect must be supported by professional engineers in the disciplines involved in the claim. Lastly the new architect must be competent to supervise the correction of the work. This process is messy and expensive but necessary to correct the public work.

You suggest that the professionals representing the District should provide you with opinions relative to the outcomes (costs) of the work to be performed. As to the attorneys this may not be warranted pursuant to the American Bar Association standards. Such opinion letters are only appropriate when a particular result is probable. Monthly billing of such services allows the Board to monitor the cost. When, as and if the Board is of the opinion that the costs of these services is not warranted, the claim, litigation, etc. may be settled or abandoned.

See
Note 2
Page 18

Please note that some of these matters involve compensation paid to the District as a result of the professional services rendered to the District. The litigation costs for the arbitration against the architect are offset to some degree by the revenue received from the architect's malpractice policy. Further note that some matters are covered by insurance. It is prudent to select counsel that will be approved by the insurance carrier (ie: Human Rights Claims) once the same mature into litigation.

The Board acknowledges that "Request for Proposals"; while they do not take into consideration accountability, reliability, responsibility, judgment, integrity, and moral worth; are an additional tool that the District can use in procuring professional services. The Board will also ensure that the rate schedules for professional services are included as part of the procurement resolution.

See
Note 3
Page 18

II. Information Technology

The District is preparing comprehensive computer usage and breach notification policies in accordance with the guidelines of your office.

The District has revised user access rights to the financial software, although the district has multiple layers of control over the financial process.

In accordance with your office's recommendation and review, any remote access to the District's information technology systems or data by any employee of the District has been terminated. The District has established with its IT Company a procedure that will closely monitor and limit the remote access of any entity and provide access logs to the District.

The Riverhead Fire District acknowledges it is required to provide sound financial management procedures. The District believes it has properly done so in the past. It is noted that the District employs an accounting firm to perform quarterly reviews of finances over and above the State requirements. The audit, as conducted, is readily accepted as a set of

recommendations for improvement of those previously existing practices, policies and procedures.

The District also acknowledges its responsibility to initiate any corrective action, as it finds necessary and to address the findings and recommendations of the report. A response is being provided by virtue of this letter , as well as a Corrective Action Plan ("CAP"), which will be submitted pursuant to General Municipal Law §35(4)(b)(1)(2) after the final report is issued by and received from your office.

The Board thanks your office for its time, thorough review, objective comments and recommendations and will proceed as outlined in this response.

Respectfully Submitted,

Dennis Hamill
Chairman of the Board
Riverhead Fire District

APPENDIX B

OSC COMMENTS ON THE DISTRICT'S RESPONSE

Note 1

These rate schedules do not constitute or replace written agreements with the service providers, and they do not detail the scope of services being provided.

Note 2

We acknowledge that it is not always possible to know the total cost of a service to be provided. However, written agreements for professional services should include at least an estimate of the total cost, or a maximum allowable cost, so that the District can properly monitor its budget and ensure that sufficient funds are available for the expenditure.

Note 3

OSC recommends using requests for proposals (RFPs) as a best practice to promote competition and to help ensure the desired services are obtained at the best price. RFPs can consider a variety of non-monetary factors, although it is not clear to us what the District means by “moral worth” as a factor that would be considered.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the adequacy of the internal controls put in place by officials to safeguard District assets. To accomplish this, we performed an initial assessment of the internal controls so that we could design our audit to focus on those areas most at risk. Our initial assessment included evaluations of the following areas: financial condition and oversight, control environment, cash receipts and disbursements, payroll and personal services, professional services, procurement, capital assets and inventories, length of service award program (LOSAP), and information technology (IT).

During the initial assessment, we interviewed appropriate District officials, performed limited tests of transactions and reviewed pertinent documents, such as District policies and procedures manuals, Board minutes, and financial records and reports. In addition, we obtained information directly from the computerized financial databases and analyzed it electronically using computer-assisted techniques. This approach provided us with additional information about the District's financial transactions as recorded in its databases. Further, we reviewed the District's internal controls and procedures over the computerized financial databases to help ensure that the information produced by such systems was reliable.

After reviewing the information gathered during our initial assessment, we determined where weaknesses existed, and evaluated those weaknesses for the risk of potential fraud, theft and/or professional misconduct. We then decided on the reported objective and scope by selecting for audit those areas most at risk. We selected professional services and IT for further testing. During this audit, we examined the District's books and records from January 1, 2010 to September 30, 2011. To accomplish the objective of this audit and to obtain valid audit evidence, we performed the following procedures:

- We interviewed District officials and staff to gain an understanding of the procurement process and individual job duties.
- We reviewed minutes of the Board's proceedings and District policies as they related to the scope of our audit.
- We reviewed a list of all cash disbursements made from January 1, 2010 to September 30, 2011 to determine how much was spent on professional services during the audit period.
- We examined documentation for selected professional service providers to determine if District officials solicited competition when procuring such services.
- We examined invoices to determine if payments to professionals were made in accordance with agreements or Board resolutions, and if there was a clear understanding as to the services to be provided, the delivery timeframes and the amounts of compensation.
- We interviewed District officials to gain an understanding of the District's IT systems.

- We reviewed user permission reports to determine if excess user access rights were given to individuals and employees.

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

APPENDIX D

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