



Firemen's Benevolent Association of the Village of Le Roy

Oversight of the Association's Foreign Fire Insurance Tax Moneys

Report of Examination

Period Covered:

January 1, 2012 — December 10, 2013

2014M-26



Thomas P. DiNapoli

Table of Contents

	Page
AUTHORITY LETTER	2
INTRODUCTION	3
Background	3
Objective	3
Scope and Methodology	3
Comments of Local Officials and Corrective Action	4
OVERSIGHT OF THE ASSOCIATION’S FOREIGN FIRE INSURANCE TAX MONEYS	5
Cash Disbursements and Receipts	6
Reported Cash	9
Annual Financial Report	11
Recommendations	11
APPENDIX A Response From Local Officials	12
APPENDIX B Audit Methodology and Standards	14
APPENDIX C How to Obtain Additional Copies of the Report	15
APPENDIX D Local Regional Office Listing	16

State of New York Office of the State Comptroller

Division of Local Government and School Accountability

October 2014

Dear Firemen's Benevolent Association Officials:

The Office of the State Comptroller's goals include enabling and encouraging entities that receive and disburse foreign fire insurance tax moneys to properly account for and protect these moneys.

Following is a report of our audit of the Firemen's Benevolent Association of the Village of Le Roy, entitled Oversight of the Association's Foreign Fire Insurance Tax Moneys. This audit was conducted pursuant to the State Comptroller's authority as set forth in Article V, section 1 of the State Constitution and Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for association 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 our 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*

Introduction

Background

The Firemen's Benevolent Association of the Village of Le Roy (Association) is located in the Village of Le Roy, Genesee County and was established on April 11, 1853 by a special act of the State Legislature, which was subsequently amended on May 25, 1881. The purpose of the Association is to accumulate a fund for the relief of indigent and disabled firemen or their families.

The Association is comprised of all volunteer firefighters from the three fire companies that make up the Le Roy Fire Department. The Association is managed by a Board of Directors (Board) which includes a President, Vice-President, Secretary, Treasurer and three Directors (one from each fire company). The Board adopted a constitution,¹ which states that the Board is responsible for the general supervision and control of the Association's financial interests.

The Association is funded almost exclusively from the foreign fire insurance (FFI) tax,² which totaled \$12,332 in the 2013 fiscal year. The Association is required to use the FFI tax in furtherance of its corporate purpose and is authorized to distribute annually certain surplus funds to the fire companies comprising the Le Roy Fire District. We also conducted an audit of the Le Roy Fire Department and issued a separate report, *Oversight of Fire Department Finances (2014M-25)*.

Objective

The objective of our audit was to examine internal controls over the Association's receipt and disbursement of the FFI tax and addressed the following related question:

- Are Association controls adequate to ensure that financial activity is properly recorded and reported and that Association moneys are safeguarded?

Scope and Methodology

We initially examined the Association's records and reports for the period January 1, 2012 through December 10, 2013. Upon identifying questionable transactions, we expanded our scope back to April 2003.

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 B of this report.

¹ Revised most recently in 2012

² New York State Insurance Law generally imposes a 2 percent tax on premiums of fire insurance policies written by foreign and alien insurers on property situated within various governmental entities in the State of New York.

**Comments of
Local Officials and
Corrective Action**

The results of our audit and recommendations have been discussed with Association officials and their comments, which appear in Appendix A, have been considered in preparing this report. Association officials generally agreed with our findings and indicated they planned to initiate corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days. We encourage the Association to make this plan available for public review in its Secretary's office.

Oversight of the Association's Foreign Fire Insurance Tax Moneys

The Board is responsible for establishing adequate internal controls over cash receipts and disbursements. The Association's constitution requires the Board to authorize the investment of all funds and may designate the banks in which the Treasurer can deposit Association moneys. In addition, the Board is required to approve disbursements prior to payment by the Treasurer, and checks must be signed by both the Treasurer and President. Beyond these requirements, the Board should periodically compare financial transactions on bank statements and canceled check images with the amounts recorded by the Treasurer as received and disbursed, and compare cash balances on bank statements (as adjusted for deposits in transit and outstanding checks) with the corresponding cash balances reported by the Treasurer on the annual financial report. The Board should also verify that the Treasurer prepares and submits the required annual report of the receipts, expenditures and balances of FFI tax proceeds to the Office of the State Comptroller (OSC).

The Board did not establish adequate internal controls over the receipt and disbursement of FFI tax. We identified \$27,738 in questionable disbursements that were not supported by invoices or authorized by the Board. Of this amount, 15 checks totaling \$10,197 were payable to the Treasurer, three checks totaling \$3,563 were payable to Total Quality Plus (a business purportedly owned by the Treasurer), four electronic funds transfers totaling \$13,761 were made to a credit card company and an electronic funds transfer of \$217 was made to a wireless telephone provider. Moreover, an additional \$6,727 was unaccounted for. We also found 12 unexplained deposits to Association bank accounts totaling \$22,440 that were not recorded in the Association's records or reports. Further, 14 unauthorized transfers totaling \$14,305 were made from the Association's bank accounts to the Le Roy Fire Department's (Department) checking account. In addition, four transfers totaling \$8,600 were made from the Department to the Association. The Association Treasurer is also Treasurer of the Department. Officials from the Association and Department told us that there should be no reason for transfers to occur between these two organizations.

The bank account balance the Treasurer reported on the 2012 annual report was \$27,741 more than what was actually in the bank at December 31, 2012. An unexplained deposit of \$24,350 was made on October 28, 2013 to the Association bank account with a check from Total Quality Plus. In November 2013, the President of the Association

accepted the Treasurer's request for a leave of absence pending the full resolution of our audit and any subsequent investigation.

Finally, the Board did not verify that the Treasurer prepared and filed the statutorily required annual report of the receipts, expenditures and balances of FFI tax with OSC.³

Cash Disbursements and Receipts

According to the Association's constitution, the Treasurer should make disbursements only as authorized by the Board and by check countersigned by the President and keep a true and complete record of all transactions. After paying all claims against the Association and funding a contingent expense account,⁴ the special act creating the Association indicates that the Association's surplus funds should be distributed equally between the three fire companies. Also, at the annual meeting of the Board, or upon request, the Treasurer is required to submit to the Board a complete and accurate statement of the funds held by him and the receipts and expenditures of the preceding year. The constitution also requires the Treasurer, among other things, to have charge of all moneys received by the Association and keep an accurate record of all cash receipts.

Cash Disbursements – The Treasurer processed cash disbursements with limited oversight by the Board. Disbursements were not authorized by the Board, cash disbursement records were not accurate, and the Board was not provided with bank statements or canceled check images for its review.

We identified questionable disbursements totaling \$27,738, as indicated in Table 1. Of this amount, electronic funds transfers totaling \$13,761 were made to a credit card company, checks totaling \$10,197 were payable to the Treasurer, checks totaling \$3,563 were payable to Total Quality Plus (a business purportedly owned by the Treasurer) and an electronic funds transfer of \$217 was made to a wireless telephone provider.

³ We found reports for our audit period in the Association's records while conducting our audit. However, the Association has not filed these reports with OSC since at least the 2009 fiscal year.

⁴ The special act requires that a contingent account be maintained with a balance of \$300.

Table 1: Questionable Disbursements		
Date	Deposit/Payee	Amount
10/6/2004	EFT – Credit Card Payment	\$3,100
12/12/2005	EFT – Credit Card Payment	\$6,000
8/10/2006	EFT – Credit Card Payment	\$3,099
8/3/2009	EFT – Credit Card Payment	\$1,562
7/12/2006	Check –Treasurer	\$3,176
1/9/2007	Check –Treasurer	\$323
7/22/2008	Check –Treasurer	\$354
9/3/2008	Check –Treasurer	\$1,123
9/15/2008	Check –Treasurer	\$452
10/7/2008	Check –Treasurer	\$452
11/17/2008	Check –Treasurer	\$952
10/8/2010	Check –Treasurer	\$796
12/22/2010	Check –Treasurer	\$189
4/11/2011	Check –Treasurer	\$300
8/2/2011	Check –Treasurer	\$559
9/7/2011	Check –Treasurer	\$206
12/2/2011	Check –Treasurer	\$958
12/16/2011	Check –Treasurer	\$232
2/23/2012	Check –Treasurer	\$125
8/17/2010	Check – Total Quality Plus	\$1,000
11/15/2010	Check – Total Quality Plus	\$623
9/18/2013	Check – Total Quality Plus	\$1,940
7/23/2013	EFT – Wireless Telephone Provider	\$217
		\$27,738

According to the Association President and Secretary, the Board did not authorize any compensation to be paid to the Treasurer and did not authorize Total Quality Plus to provide any services to the Association. In addition, the Board did not provide the Treasurer with a credit card or a cellular telephone or have knowledge of reimbursements made to the Treasurer presumably for Association transactions using his personal credit card. Moreover, these payments were not supported by invoices, were not included on the Treasurer’s annual report, and were not approved by the Board in the minutes. However, all 18 disbursements made by check included the apparent signatures of the Association Treasurer and President. We reviewed

these canceled check images with the current and former Association Presidents,⁵ who both indicated that they did not recall signing them.

Cash Receipts – The Association’s almost exclusive source of revenue is the FFI tax. The 2004 FFI check for \$6,727 was not deposited in an Association bank account and is unaccounted for. The remittance advice that had been attached to the check was found in the Association’s records, indicating the check was received by the Association; however, no corresponding deposit into an Association bank account was documented. In addition, we found that in 2007, the FFI tax of \$5,421 was deposited in a Le Roy Fire Department, Inc. bank account, rather than in an Association account.

We also obtained deposit compositions from the Association’s bank to compare them to the Treasurer’s annual report. As indicated in Table 2, we found 12 unexplained deposits to Association bank accounts totaling \$22,440 that were not recorded in the Association’s records or reports. Upon our inquiry, Association officials were unable to explain these deposits, including a \$7,000 deposit of a check from Total Quality Plus on April 12, 2010. The memo line on the check described this deposit as a “donation.”

Date	Description from Deposit Compositions	Amount
4/15/2003	Unavailable ^a	\$400
8/6/2003	Unavailable ^a	\$1,500
4/7/2005	Unavailable ^a	\$7,500
3/27/2007	Cash	\$50
4/16/2007	Cash	\$250
4/17/2009	Cash	\$3,500
4/20/2009	Cash	\$200
4/7/2010	Cash	\$100
4/12/2010	Check from Total Quality Plus	\$7,000
1/28/2011	Cash	\$40
6/6/2011	Cash	\$200
2/15/2013	Cash	\$1,700
Total		\$22,440

^a Deposit compositions were only available from the bank back to 2007.

⁵ The current Association President’s signature was on one check and the former Association President’s signature was on 17 checks.

Transfers – According to the special act creating the Association, the Treasurer of the Association is the Treasurer of the Department. We found that 14 unauthorized transfers totaling \$14,305 were made from the Association’s bank accounts to the Department’s checking account. In addition, four transfers totaling \$8,600 were made from the Department to the Association. According to officials from the Department and the Association, there should be no reason for transfers to occur between these two organizations. We found that at least seven of the transfers from the Association to the Department were likely made to ensure adequate moneys were on hand prior to questionable disbursements being made to the Treasurer or his business. The net effect of these transfers is that the Department may owe the Association \$5,705.

We asked the Treasurer about the questionable disbursements, receipts and transfers. He stated that he provided all available supporting documentation to us and that, on many occasions, he paid for Association expenses with cash as well as personal checks and credit cards, and subsequently reimbursed himself. He also indicated that, on numerous occasions, he would transfer moneys between accounts of the two entities to prevent overdrafts. However, he did not provide any additional documentation to support these transactions.

Reported Cash

To ensure that Association funds are properly accounted for, the Board should compare the monthly bank statements and canceled check images from the bank with the Treasurer’s records and paid invoices. Any discrepancies should be investigated and resolved.

At the annual meeting held in April 2013, the Treasurer presented an annual report of the Association’s financial activity to the membership. The report listed the revenues received and the disbursements made in 2012 as well as a Statement of Accounts and Funds of cash balances, including the amount set aside in the permanent, contingent and memorial funds as of December 31, 2012. Based on this report, the Treasurer made a recommendation to allocate surplus FFI tax among the fire companies. The minutes indicate that, other than approving the distribution of surplus FFI tax, the Board did not question any of the financial information on the Treasurer’s report. Our review of year-end cash balances dating back to 2003 found that the amounts reported by the Treasurer were significantly more than the corresponding balances found on the bank statements for all 10 years, as indicated in Table 3.

Table 3: December 31 Bank Balance Comparison

Fiscal Year	Per Treasurer's Report	Per Bank Statements	Difference
2003	\$17,911	\$7,787	(\$10,124)
2004	\$21,750	\$1,517	(\$20,233)
2005	\$20,469	\$1,812	(\$18,657)
2006	\$20,541	\$2,164	(\$18,377)
2007	\$23,831	\$1,796	(\$22,035)
2008	\$23,875	\$6,657	(\$17,218)
2009	\$29,281	\$8,795	(\$20,486)
2010	\$25,665	\$5,049	(\$20,616)
2011	\$31,815	\$4,923	(\$26,892)
2012	\$28,090	\$349	(\$27,741)

Moreover, nine check disbursements and two cash receipts included on the Treasurer's report did not match the amount of the transaction on the bank statements or canceled check images. The total of these variances was \$5,010. For example, the payment for the 2012 annual banquet was shown as \$4,865 on the Treasurer's annual report, but the canceled check image was for \$3,865. We also found that the FFI tax received in 2006 and 2008 was shown on the Treasurer's annual report as \$4,042 and \$8,950, respectively; however, the actual amounts received were \$6,042 and \$9,950. These variances had the net effect of reducing the cash balances reported by the Treasurer on the annual report and also affected the amount being considered by the Board for distribution to the fire companies.

The Board did not compare financial transactions listed on bank statements and canceled check images with the amounts recorded by the Treasurer or compare cash balances on bank statements with the cash balances reported by the Treasurer on the annual financial report. The bank account balance the Treasurer reported on the 2012 annual report was \$27,741 more than what was actually in the bank at December 31, 2012. A deposit of \$24,350 was made on October 28, 2013 to the Association bank account with a check from Total Quality Plus. Upon our inquiry, the Treasurer stated that this was to return funds that he had invested for the Association. There was nothing in the minutes to indicate the Board authorized the Treasurer to make any investments with Association funds. When asked for documentation detailing this investment, he stated that where these funds were invested was irrelevant and that the funds were always available for Association use.⁶

⁶ We initially contacted the Treasurer, who agreed to meet with us on October 11, 2013. He did not make himself available on that date and failed to produce most of the records we requested.

Annual Financial Report

General Municipal Law requires the treasurers of organizations that receive and disburse FFI tax moneys to file with OSC an annual report of the receipts, expenditures and balances relating to such moneys.

Although we found completed reports for the entire audit period in the Association's records, the Treasurer has not submitted an annual report to OSC since at least the 2009 fiscal year. By not ensuring that the Treasurer properly completed and filed the annual report for at least the last three years, the Association is not in compliance with this statutory requirement, which helps ensure the transparency of the Association's use of the FFI tax.

Recommendations

The Board should:

1. Investigate the questionable financial transactions identified in this report and take appropriate action to recover any misappropriated moneys, as necessary.
2. Approve disbursements and transfers prior to payment.
3. Receive the monthly bank statements and canceled check images from the bank and compare them with the Treasurer's records and paid invoices.

The Treasurer should:

4. Prepare and file an annual report for the FFI tax with OSC in a timely manner.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

The local officials' response to this audit can be found on the following page.

**FIREMEN'S BENEVOLENT ASSOCIATION
OF
LEROY, NEW YORK, INC.**

Established 1858

July 28, 2014

Office of the State Comptroller
Division of Local Government and School Accountability
295 Main Street
Buffalo, New York 14203-2510

ATTN: Mr. Jeffrey D. Mazula
Chief Examiner of Local Government and
School Accountability

Re: 2014M-026

Dear Mr. Mazula:

This is to affirm that Benevolent Association Secretary James A. Spear and I met today with [REDACTED] and [REDACTED] from your organization.

The purpose of this meeting was to review the preliminary draft of your organization's findings as the result of the recent examination of the Firemen's Benevolent Association's financial affairs.

Upon review and discussion of these findings, we feel they are in order, and have no further comment as to their content.

Within 90 days of receipt of the final "Report of Examination", we will furnish your office with a detailed Corrective Action Plan (CAP) based on Recommendations contained in the Report.

Please feel free to contact me if there are further questions or comments concerning this matter.

Sincerely,

Gerald V. Diskin, President
Firemen's Benevolent Association
of LeRoy

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

We performed the following audit procedures to complete our audit objective:

- Reviewed the Association’s minutes and available documentation for information concerning approval of disbursements and the annual Treasurer’s reports;
- Reviewed the Association constitution, in particular the provisions addressing financial activity;
- Interviewed Association officials regarding financial operations, focusing on deposit and disbursement practices and procedures;
- Compared canceled checks, check images and activity noted on bank statements to Treasurer reports, available receipts and invoices, and other Association records to determine the validity of disbursements; and
- Reviewed payments made to Association officials to determine if they were authorized.

We conducted this performance audit in accordance with 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 C

HOW TO OBTAIN ADDITIONAL COPIES OF THE REPORT

To obtain copies of this report, write or visit our web page:

Office of the State Comptroller
Public Information Office
110 State Street, 15th Floor
Albany, New York 12236
(518) 474-4015
<http://www.osc.state.ny.us/localgov/>

APPENDIX D
OFFICE OF THE STATE COMPTROLLER
DIVISION OF LOCAL GOVERNMENT
AND SCHOOL ACCOUNTABILITY

Andrew A. SanFilippo, Executive Deputy Comptroller
Gabriel F. Deyo, Deputy Comptroller
Nathalie N. Carey, Assistant Comptroller

LOCAL REGIONAL OFFICE LISTING

BINGHAMTON REGIONAL OFFICE

H. Todd Eames, Chief Examiner
Office of the State Comptroller
State Office Building - Suite 1702
44 Hawley Street
Binghamton, New York 13901-4417
(607) 721-8306 Fax (607) 721-8313
Email: Muni-Binghamton@osc.state.ny.us

Serving: Broome, Chenango, Cortland, Delaware,
Otsego, Schoharie, Sullivan, Tioga, Tompkins Counties

BUFFALO REGIONAL OFFICE

Jeffrey D. Mazula, Chief Examiner
Office of the State Comptroller
295 Main Street, Suite 1032
Buffalo, New York 14203-2510
(716) 847-3647 Fax (716) 847-3643
Email: Muni-Buffalo@osc.state.ny.us

Serving: Allegany, Cattaraugus, Chautauqua, Erie,
Genesee, Niagara, Orleans, Wyoming Counties

GLENS FALLS REGIONAL OFFICE

Jeffrey P. Leonard, Chief Examiner
Office of the State Comptroller
One Broad Street Plaza
Glens Falls, New York 12801-4396
(518) 793-0057 Fax (518) 793-5797
Email: Muni-GlensFalls@osc.state.ny.us

Serving: Albany, Clinton, Essex, Franklin,
Fulton, Hamilton, Montgomery, Rensselaer,
Saratoga, Schenectady, Warren, Washington Counties

HAUPPAUGE REGIONAL OFFICE

Ira McCracken, Chief Examiner
Office of the State Comptroller
NYS Office Building, Room 3A10
250 Veterans Memorial Highway
Hauppauge, New York 11788-5533
(631) 952-6534 Fax (631) 952-6530
Email: Muni-Hauppauge@osc.state.ny.us

Serving: Nassau and Suffolk Counties

NEWBURGH REGIONAL OFFICE

Tenneh Blamah, Chief Examiner
Office of the State Comptroller
33 Airport Center Drive, Suite 103
New Windsor, New York 12553-4725
(845) 567-0858 Fax (845) 567-0080
Email: Muni-Newburgh@osc.state.ny.us

Serving: Columbia, Dutchess, Greene, Orange,
Putnam, Rockland, Ulster, Westchester Counties

ROCHESTER REGIONAL OFFICE

Edward V. Grant, Jr., Chief Examiner
Office of the State Comptroller
The Powers Building
16 West Main Street – Suite 522
Rochester, New York 14614-1608
(585) 454-2460 Fax (585) 454-3545
Email: Muni-Rochester@osc.state.ny.us

Serving: Cayuga, Chemung, Livingston, Monroe,
Ontario, Schuyler, Seneca, Steuben, Wayne, Yates Counties

SYRACUSE REGIONAL OFFICE

Rebecca Wilcox, Chief Examiner
Office of the State Comptroller
State Office Building, Room 409
333 E. Washington Street
Syracuse, New York 13202-1428
(315) 428-4192 Fax (315) 426-2119
Email: Muni-Syracuse@osc.state.ny.us

Serving: Herkimer, Jefferson, Lewis, Madison,
Oneida, Onondaga, Oswego, St. Lawrence Counties

STATEWIDE AUDITS

Ann C. Singer, Chief Examiner
State Office Building - Suite 1702
44 Hawley Street
Binghamton, New York 13901-4417
(607) 721-8306 Fax (607) 721-8313