



Hauppauge Fire District

Mandatory Training and Procurement

Report of Examination

Period Covered:

January 1, 2013 — April 30, 2014

2014M-375



Thomas P. DiNapoli

Table of Contents

	Page
AUTHORITY LETTER	1
EXECUTIVE SUMMARY	2
INTRODUCTION	4
Background	4
Objectives	4
Scope and Methodology	4
Comments of District Officials and Corrective Action	5
MANDATORY TRAINING	6
Recommendation	6
PROCUREMENT	7
Recommendations	9
APPENDIX A Response From District Officials	11
APPENDIX B Audit Methodology and Standards	13
APPENDIX C How to Obtain Additional Copies of the Report	14
APPENDIX D Local Regional Office Listing	15

State of New York Office of the State Comptroller

Division of Local Government and School Accountability

April 2015

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 of Fire Commissioner 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 the Hauppauge Fire District, entitled Mandatory Training and Procurement. 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 New York State 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 Hauppauge Fire District (District) covers approximately 12 square miles in the Towns of Smithtown and Islip, Suffolk County, and serves approximately 15,000 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 Board is responsible for the District's overall financial management, has the power to levy real property taxes and can issue debt. The District Secretary/Treasurer is the District's chief fiscal officer and is responsible for receiving, disbursing and maintaining custody of District funds, maintaining financial records and preparing monthly and annual reports.

The Board adopts a budget annually, which is filed with the Towns of Islip and Smithtown. The District's expenditures for 2013 were \$3.9 million. The 2014 budgeted appropriations were \$3.8 million, which were funded primarily with real property taxes.

Scope and Objectives

The objectives of our audit were to assess Board compliance with training requirements and to review internal controls over procurement for the period January 1, 2013 through April 30, 2014. Our audit addressed the following related questions:

- Did Board members complete required training for Fire District Commissioners to assist them in effectively overseeing District financial operations?
- Did the District use competitive methods to procure goods and services and pay for goods and services based on written agreements?

Audit Results

We found that three of the five Fire Commissioners have not attended the mandatory training required by law. The lack of Board training may have contributed to the lack of oversight over key District operations we identified during our audit.

The District did not always use competitive methods when procuring goods and services as required by General Municipal Law and its procurement policy. We reviewed purchases from 20 vendors and found that the District did not seek competition for purchases from 12 vendors who were paid approximately \$414,878 during the audit period. In addition, the District made payments to four vendors totaling

\$187,418 without contracts and paid four vendors more than provided in the terms of the agreements. As a result, there is an increased risk that the District may have paid more than necessary for the goods and services purchased.

The Board may standardize and award purchase contracts for particular types or kinds of equipment, material, supplies or services by adopting a resolution. While the District's purchasing policy specifies how to procure goods and services that are under the bidding threshold, the District did not follow its policy and did not properly standardize goods and services. The Board passed resolutions to standardize the purchase of carbon monoxide detectors, firefighting turnout gear and fire police gear, thereby designating that the District would purchase specific brand names for these items. However, the Board resolutions did not state the reasons for standardization, such as the need for efficiency or economy, nor did the resolutions state specific reasons for their adoption. The District paid three vendors associated with these products a total of \$21,873. District officials should have obtained quotes for these goods, but did not.

Additionally, the Board standardized three specific vendors for the purchase of emergency lighting and radio installations, fire alarms and access systems, and hose testing. While the Board has the authority to standardize a particular type or kind of equipment, there is no authority for the Board to standardize specific vendors. These three vendors were collectively paid a total of \$29,635.¹ As a result, the District limited competition and may not have procured these goods and services at the best price.

Comments of District 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. District officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

¹ According to the January 9, 2014 organizational meeting minutes, the District selected a different vendor for all emergency lighting and radio installation, but there were no payments made to this new vendor. The District continued using the vendor stated in the January 10, 2013 organizational meeting throughout the audit period.

Introduction

Background

The Hauppauge Fire District (District) covers approximately 12 square miles in the Towns of Smithtown and Islip, Suffolk County, and serves approximately 15,000 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 responds to approximately 950 alarms per year and has 140 active firefighters.

The Board is responsible for the District's overall financial management, has the power to levy real property taxes and can issue debt. The District Secretary/Treasurer is the District's chief fiscal officer and is responsible for receiving, disbursing and maintaining custody of District funds, maintaining financial records, and preparing monthly and annual reports.

The Board adopts a budget annually, which is filed with the Towns of Islip and Smithtown. The District's actual expenditures for 2013 were \$3.9 million. The budgeted 2014 appropriations were \$3.8 million, funded primarily with real property taxes.

Objectives

The objectives of our audit were to assess Board compliance with training requirements and to review internal controls over procurement. Our audit addressed the following related questions:

- Did Board members complete required training for Fire District Commissioners to assist them in effectively overseeing District financial operations?
- Did the District use competitive methods to procure goods and services and pay for goods and services based on written agreements?

Scope and Methodology

We examined the District's purchasing process and training records for evidence of Commissioner training for the period January 1, 2013 through April 30, 2014.

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 is included in Appendix B 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. District officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

The Board has the responsibility to initiate corrective action. Pursuant to Section 181-b of the New York State 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 District Secretary/Treasurer's office.

Mandatory Training

New York State Town Law (Town Law) requires elected or appointed fire district commissioners to complete an Office of the State Comptroller-approved training course within 270 days of their first day of office. The training covers the commissioners' legal, fiduciary, financial, procurement and ethical responsibilities. Specifically, this training includes procurements and disposition of assets, including competitive bidding, procedures for procurements for which competitive bidding is not required, maintenance of asset inventories and the sale or other disposition of district assets. This training course is offered on multiple dates and in various locations across the State to facilitate attendance. Commissioners are required to complete the training each time they are elected, re-elected, appointed or re-appointed to office.

Three of the District's five Fire Commissioners have not attended the mandatory training, as required by Town Law. One Commissioner was re-elected in 2012 while another Commissioner was re-elected in 2011, but neither completed the required training. The third Commissioner, re-elected in 2010, registered for the class but did not attend even though the District paid for the class. The District Secretary/Treasurer indicated that the Commissioners feel the training is unnecessary because they have many years of experience.

The lack of Board training may contribute to the lack of oversight of key District operations that we identified during our audit.

Recommendation

1. Each Commissioner should complete the required training within 270 days of taking office, as required by Town Law.

Procurement

An effective procurement process can help the District obtain services, supplies and equipment of the right quality and quantity from the best qualified and lowest-priced source, in compliance with Board policy and legal requirements. This process helps the District expend taxpayer dollars efficiently and helps guard against favoritism, extravagance and fraud. Unless an exception applies, General Municipal Law (GML) requires the Board to award purchase contracts involving an expenditure of more than \$20,000 to the lowest responsible bidder or on the basis of best value (i.e., competitive offer) and contracts for public work involving expenditures of more than \$35,000 to the lowest responsible bidder.

GML states that goods and services that are not required by law to be competitively bid must be procured in a manner to assure the prudent and economical use of public moneys in the best interests of the taxpayers. It further provides that the Board require in its policies and procedures that, with certain exceptions, the District secure through alternative proposals, by a request for proposals (RFP) process or quotations, for such goods and services, including professional services. We believe using a competitive method, such as an RFP process, helps ensure that the District obtains needed qualified services upon the most favorable terms and conditions and in the best interest of the taxpayers. To further those objectives, the Board, as required by GML, adopted procurement policies and procedures to govern the purchases that are not subject to competitive bidding. The Board should also have written agreements or contracts with the District's vendors and monitor payments to ensure that prices paid are accurate.

The District did not always use competitive methods to procure goods and services, as required by GML and its procurement policy. The District paid 393 vendors a total of \$3,789,711 during the audit period. We selected and reviewed payments to 20 vendors who were paid approximately \$574,502 and found that the District did not use competitive methods when procuring goods and services from 12 vendors that were collectively paid \$414,878. Additionally, the Board did not monitor payments made to four vendors that received a total of \$36,247 more than the terms of their agreements with the District. The Board also did not consistently enter into written agreements with the District's vendors. Without a written agreement, District officials do not have a means of determining whether rates charged are accurate. Finally, the Board did not properly use standardization as a method of efficiently procuring goods and services.

Competitive Bidding – The District made purchases of certain goods or services totaling \$251,288 from five vendors, which exceeded the GML dollar threshold for bidding. The District did not solicit bids for purchases from four vendors totaling \$217,694. For example, the District did not solicit bids when selecting a venue to provide catering services for the 2013 and 2014 installation dinners, which cost a total of \$91,836.² In addition, for three of the five vendors who were paid a total of \$125,858, there were no written contracts. For example, a vendor was paid a total of \$59,568 for supplies without a written contract.

Professional Services – The District made payments to four professional service providers totaling \$145,676 for the audit period. However, District officials did not solicit competition when procuring any of these services. For example, the District paid \$61,560 for medical services without issuing an RFP to procure the service. The District also did not have a written contract with this vendor. While the District had agreements with the other two vendors for computer and legal services, the District collectively paid them \$20,204 more than the terms of their agreements.

Written Quotes – The District made payments to eight vendors totaling \$147,903 for goods and services. However, the District paid one vendor \$21,873 for small equipment but did not solicit quotes. Additionally, while the District had contracts with two vendors for landscaping and HVAC³ work, the District collectively paid these two vendors \$16,043 more than the terms of the agreements.

Standardization – The Board may standardize and award purchase contracts for particular types or kinds of equipment, material, supplies or services by adopting a resolution. The resolution must state that, for reasons of efficiency or economy, there is need for standardization and include a full explanation of the reasons for its adoption. Upon the adoption of a proper standardization resolution, the District may provide in its specifications for a particular make or brand to the exclusion of other competitors. The use of a standardization resolution, however, is not an exception to the competitive bidding and offering requirements of GML. Therefore, a resolution to standardize does not eliminate the need to award the purchase contract on the basis

² In light of a series of statutory amendments to the GML, it appears that services, other than those necessary for the completion of a public works contract governed by the prevailing wage requirements of Article 8 of the New York State Labor Law (e.g., building construction), are now generally categorized under the statute as “purchase contracts” and not “contracts for public work.” Therefore, it appears that the District could have awarded the catering service by soliciting competitive bids or offers.

³ Heating, ventilation and air conditioning

of a competitive bid or offer, unless an exception applies. When a competitive bid or offer is not required by GML, the District is still required to comply with its own procurement policy.

The District's organizational meeting minutes dated January 10, 2013 and January 9, 2014 include resolutions to standardize carbon monoxide detectors, firefighting turnout gear and fire police gear by purchasing these items by specific brand names.⁴ In this case, the standardized items were below the dollar threshold and did not require the District to award the contracts on the basis of a competitive bid or offer. However, the District was still required to comply with its own procurement policy. The District paid one vendor associated with these products a total of \$21,873 but did not obtain quotes for these goods as provided for in the District's procurement policy.

Additionally, the same organizational minutes included resolutions which standardized three specific vendors for emergency lighting and radio installations, fire alarms and access systems and hose testing. While the Board has the authority, in appropriate circumstances, to standardize a particular brand name or make of equipment, material, supply or service, there is no authority for the Board to standardize specific vendors. These three vendors were collectively paid a total of \$29,635. As a result, the District appears to have limited competition and may not have procured goods and services at the best value in accordance with GML or District policy.

The Board believes it is in the District's best interest to purchase specific makes or brands of products to maintain consistency so that volunteers are familiar with equipment and products and do not have to continually learn to use new equipment or products. However, the District still needs to procure the goods and services in accordance with GML and its procurement policy. When purchases are made without soliciting competition, there is little assurance that goods and services are procured in the most prudent and economical manner and without favoritism. Moreover, without a written agreement or contract, District officials do not have a ready means of determining whether rates charged are accurate.

Recommendations

The Board should:

2. Closely monitor the purchasing process to ensure that purchases are made in accordance with GML and the District's procurement policy.

⁴ We note that the resolutions did not include any explanation or reasons for the need to standardize such items.

3. Consider revising its procurement policy to require a competitive process for procuring professional services.
4. Enter into written agreements with all vendors that detail the goods and services to be provided as well as the cost for those goods and services.
5. Monitor payments to ensure that they are in accordance with the terms of the agreements.
6. Properly document the required process to standardize the purchase of goods and services.
7. Ensure that it only standardizes procurements of goods and services and not specific vendors.

APPENDIX A

RESPONSE FROM DISTRICT OFFICIALS

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

COMMISSIONERS OF THE HAUPPAUGE FIRE DISTRICT

Commissioners:
Edward J. Crean, Jr.
Christopher C. Hirsch
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Carl T. Thomas



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Michael Buturla
Secretary/Treasurer

March 19, 2015

Via First Class Mail

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NYS Office Building
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Hauppauge, New York 11788-5533

Re: Report of Examination; Hauppauge Fire District; Mandatory Training and Procurement Period: January 1, 2013-April 30, 2014/Report No. 2014M-375

Dear Mr. McCracken:

This is in response to your letter dated February 18, 2015 with regard to the above referenced report concerning the Hauppauge Fire District ("District"). I want to take this opportunity to thank the work that was done by your office, and inform you that the Board of Fire Commissioners ("Board") has carefully reviewed the findings contained within the report and are appreciative of your input. The recommendations contained in the report will assist us in improving the operation of the District, and allow us to continue to adhere to our responsibilities to the residents of the District.

In reviewing the report we have areas where further explanation on the part of the District is necessary to clarify the findings noted by your office. Notwithstanding, the Board agrees that: (a) changes are required with regard to any future standardization with respect to the purchase of particular kinds of goods and/or services; (b) all appointed or newly elected Fire Commissioners must complete the mandatory training under New York State Town Law; and (c) the District must insure that the parameters of GML §103, as well as the District's procurement policy, are adhered to for all purchases.

In closing, and as aforementioned, the findings and recommendations contained with your report have assisted us in identifying areas where we can improve. We will be addressing in detail the specific corrective action that the District has and/or will take in the future, which will be contained in the corrective action plan to be provided to your office.

Very truly yours,

Carl Thomas, Chairman
Board of Fire Commissioners

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

Our overall goals were to determine whether all Board members attended the required training to assist in effectively overseeing the District, whether the District used competitive methods when procuring goods and services and whether goods and services were paid based on written agreements.

- We requested all the certificates from the required Board Oversight training.
- We obtained a list of vendors and total amounts paid for the audit period. We selected five of the highest paid vendors subject to bids, three of the highest paid vendors subject to RFPs and nine of the highest paid vendors subject to quotes during the audit period.
- We selected for testing all the vendors and products that were listed in the organizational meeting minutes, which expanded the number of vendors to a total of 20.
- We selected the highest claim for each vendor and verified that the vendors were paid according to their contracts or agreements, when available. We reviewed invoices, contracts and other supporting documentation, such as quotes, bids and State contract documents, when applicable, and compared them to invoices to determine any overpayments.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX C

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