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February 6, 2015

Frank Guardino, Chairman
Board of Fire Commissioners
Mechanicstown Fire District
22 Victory Street
Middletown, NY 10940

Report Number: S9-14-36

Dear Mr. Guardino:

The Office of the State Comptroller works to help fire district officials improve their operations and provide guidance and services that will assist them in making those improvements. Our goals are to develop and promote short-term and long-term strategies to enable and encourage fire district officials to reduce costs, improve service delivery and account for and protect their entity's assets.

In accordance with these goals, we conducted an audit of 10 fire districts and municipalities throughout New York State. The objective of our audit was to determine if fire districts and municipalities awarded length of service award program (LOSAP) credit accurately. We included the Mechanicstown Fire District (District) in this audit. Within the scope of this audit, we examined the District's LOSAP and supporting documentation and activities of eligible volunteer firefighters for the period January 1, 2012 through December 31, 2013.

This report of examination letter contains our findings and recommendations specific to the District. We discussed the findings and recommendations with District officials and considered their comments, which appear in Appendix A, in preparing this report. District officials agreed with our findings and recommendations and plan to initiate corrective action. At the completion of our audit of the 10 districts and municipalities, we prepared a global report that summarizes the significant issues we identified at all the units audited.

Summary of Findings

We found that the District did not ensure that volunteer firefighters received accurate LOSAP service credit. The District's point system does not comply with New York State General Municipal Law (GML) regarding how volunteer firefighters should receive points for participation in department responses, drills, parades and certain other activities.

Further, stand-bys were counted as department responses, causing points for both activities to be improperly awarded. These weaknesses resulted in seven volunteer firefighters not receiving appropriate LOSAP service credit.

As a result, there is an increased risk that District volunteer firefighters may not earn deserved credit for qualified activities.

Background and Methodology

The District is a district corporation and political subdivision of the State, distinct and separate from the Town of Wallkill and Orange County in which it is located. The District provides fire protection and emergency services to the Town of Wallkill. It appears that the District provides at least some of the emergency services through an emergency rescue first aid squad, which does not operate an ambulance.¹ An elected five-member Board of Fire Commissioners (Board) governs the District and is responsible for overseeing the District's LOSAP.

The District's 2013 budget appropriations totaled approximately \$1.5 million. The District's LOSAP assets for 2012 totaled approximately \$667,000. The District's contribution for the 2012 LOSAP was approximately \$72,000.

When a fire district sponsors a LOSAP, fire district officials are required to establish a point system that complies with GML. GML establishes the activities that can be included in the point system. One such activity is participation in department responses. Other activities that can be included are training courses, stand-bys and sleep-ins, serving in an elected or appointed position, teaching fire prevention classes, attending certain meetings, drills and certain miscellaneous activities. Although a fire district can select which activities to include in its point system, in most instances, GML specifies the number of points that can be granted each time an activity is performed and the maximum number of points that can be earned for performing each activity over the course of a year. However, a fire district is under no obligation to include in its point system every activity specified in GML.

Active volunteer firefighters earning 50 points annually must be credited with one "year of firefighting service" (LOSAP service credit). Points must be granted in accordance with the point system established by the LOSAP sponsor. Annually,² each volunteer fire company is required to submit a list (certified under oath) to the fire district's governing board identifying all the fire district volunteer firefighters who earned at least 50 points during the preceding year. The governing board is required to review the list and approve the final annual certification, at which time each volunteer firefighter on the list must be awarded one year of LOSAP service credit.

In 1995, the District created a defined benefit LOSAP to facilitate recruitment and retention of active volunteer firefighters by providing a pension-like benefit based upon their years

¹ Whether the District properly established the squad is outside the scope of this audit (see GML, Section 209-b); however, for purposes of this report, we assume that the squad was duly organized.

² On or before March 31

of service to the District. In general, upon reaching entitlement age of 58, participants in the District's LOSAP will receive a monthly benefit of \$20 for each year of service up to 40 years. In 2013, the LOSAP had 35 volunteer firefighters receiving annual service credit.

We examined the District's internal controls over its LOSAP and reviewed records and reports for the period January 1, 2012 through December 31, 2013.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and conduct our audit to adequately assess those District operations within our audit scope. Further, those standards require that we understand the District's management controls and those laws, rules and regulations that are relevant to the District's operations included in our scope. An audit includes examining, on a test basis, evidence supporting records for LOSAP-eligible activities and applying such other auditing procedures we consider necessary in the circumstances. We believe that our audit provides a reasonable basis for the findings, conclusions and recommendations contained in this report. More information on such standards and the methodology used in performing this audit is included in Appendix B of this report.

Audit Results

A fire district sponsoring a LOSAP is required to adopt standards and procedures in conformance with GML for administering its LOSAP. The governing board should ensure that complete and accurate records of volunteer firefighters' activities under the point system are prepared and maintained in accordance with its standards and procedures.

We reviewed the District's point system to determine which activities volunteer firefighters may perform to earn points toward LOSAP service credit and if the point system is in alignment with GML. The District's point system allows points to be earned for training courses, drills, sleep-ins or "emergency stand-bys," elected or appointed positions, meetings, participation in department responses, miscellaneous activities, parades and company functions/events. The point system defines points per activity and maximum points for certain types of activities.

We found that the District's point system is not consistent with GML for awarding points for participation in department responses, drills, parades and company functions/events. Further, points for participation in department responses and stand-bys were not properly awarded because stand-bys were treated as department responses. As a result of these deficiencies, LOSAP service credit was not properly awarded to seven volunteer firefighters.

Compliance with General Municipal Law – A fire district sponsoring a LOSAP is required to administer a LOSAP in conformance with GML.

- Department Responses – If a point system includes participation in department responses as an activity for which points may be earned, GML requires a fire district to grant 25 points to volunteer firefighters for responding to the minimum number of fire calls (i.e., all calls "other than emergency rescue and first aid squad calls

[ambulance calls]”) and an additional 25 points for responding to the minimum number of EMS calls (i.e., “emergency rescue and first-aid squad [ambulance] calls”). For either type of call, GML requires a volunteer firefighter to respond to a minimum number of calls and makes the minimum number of responses dependent on the number of calls the district’s fire department responds to annually. For example, if a fire district responds annually to 500 or fewer fire calls, then a volunteer firefighter must respond to at least 10 percent of the fire calls to receive the points. Alternatively, if a fire district responds annually to between 500 and 1,000 fire calls, then a volunteer firefighter must respond to at least 7.5 percent of the fire calls to be granted 25 points. The same percentages apply to EMS calls.

Since the District responded to 709 and 690 fire calls in 2012 and 2013, respectively, a volunteer firefighter should receive 25 points for responding to 54 or more fire calls in 2012 and 52 or more fire calls in 2013.

We found that the District’s point system is inconsistent with GML with respect to providing points for participation in department responses. The District’s point system provides 15 points, rather than 25 points, to volunteer firefighters who respond to 7.5 percent or more of the District’s annual number of fire calls. Not only does the District’s point system provide fewer points than required by GML, but the District also improperly counted stand-bys as fire calls. Under GML, participation in department responses and stand-bys are mutually exclusive activities for which points may be granted. In fact, for this purpose, a “stand-by” is defined as “a line of duty activity of the volunteer fire company, lasting for four hours, not falling under one of the other categories” for which points can be granted. The District also combined stand-by activities with fire calls to determine the required number of calls. According to our review of the District’s point system, stand-by activities were included as a separate category. The District should not include stand-by activities toward the calculation of fire calls and should be awarding points separately for stand-by activities.

- Stand-bys – If a point system includes stand-bys as an activity for which points may be earned, GML allows volunteer firefighters to earn one point per stand-by, up to a maximum of 20 points. For this purpose, GML defines a “stand-by” as “a line of duty activity of the volunteer fire company, lasting four hours, not falling under one of the other categories.”

The District’s point system included stand-bys as an activity for volunteer firefighters to earn points, and this aspect of the point system was written in conformity with GML. Volunteer firefighters, however, were not awarded points for their participation in stand-bys as outlined in the point system. Instead, as mentioned above, stand-bys were improperly treated as fire calls for the purpose of awarding points for participation in department responses.

- Drills – If a point system includes drills as an activity for which points may be earned, GML specifies one point per drill having a duration of at least two hours,

up to a maximum of 20 points. The District's point system is inconsistent with GML because it provides two points per drill without a 20 point maximum.

- Parades – Although GML does not specifically authorize a point system to include parades as an activity for which points may be earned, it does authorize a point system to provide points for certain “miscellaneous activities.” The miscellaneous activities for which points may be earned include parades. When a point system includes miscellaneous activities, GML requires points for such activities to be earned at the rate of one point per activity, up to a maximum of 15 points for all miscellaneous activities.

The manner in which parades are included in the District's point system is inconsistent with GML because parades are treated as a separate activity with its own 15 point maximum, instead of being subject to the 15 point cap on all miscellaneous activities. Under GML, parades are miscellaneous activities and are subject to the 15 point maximum for those activities. Moreover, the point system provides five points per parade, while GML limits the rate at which points may be earned for miscellaneous activities to one point per activity.

- Company Functions/Events – While GML authorizes a point system to provide points for attendance at official meetings of a volunteer fire company, it does not specifically authorize a point system to include participation in other company “functions/events” as an activity for which points may be earned. As already discussed, however, GML does permit a point system to include certain “miscellaneous activities.” These miscellaneous activities include certain fire company fund-raising activities but do not ordinarily include general community events. When a point system includes miscellaneous activities, points for such activities must be earned at the rate of one point per activity, up to a maximum of 15 points for all miscellaneous activities.

The District's point system allows up to 15 points to be earned for two types of company functions/events: “fund-raising (i.e., turkey shoot)” and “community event (i.e., blood drive).” This aspect of the District's point system is inconsistent with GML because points for company functions/events are subject to their own separate 15 point maximum, rather than the 15 point cap for all miscellaneous activities. Moreover, we do not believe that GML permits points to be earned for community blood drives.

Due to the inconsistencies between the District's point system and GML and the District's treatment of stand-bys, we selected all volunteer firefighters (116) in our scope period to determine whether LOSAP service credit was properly awarded. We found seven instances in which LOSAP service credit was not properly awarded.³ Specifically, six volunteer firefighters did not receive one year of LOSAP service credit when, in fact, they would have earned at least the minimum points necessary had the District's point system been in

³ We calculated the points the volunteer firefighters should have received per the District's point system and in accordance with GML, when the point system was not consistent with GML.

compliance with GML. We also found that one volunteer firefighter should not have received one year of LOSAP service credit because the volunteer firefighter would have earned less than 50 points for the year. For example:

- One volunteer firefighter was reported as having earned 51 points and was, therefore, awarded one year of LOSAP service credit. However, from our calculations, the volunteer firefighter should have earned only 48 points and should not have been awarded one year of service credit. This volunteer firefighter should have received eight fewer points for parades, nine fewer points for drills, 10 more points for participation in department responses and four more points for stand-bys with a net impact of three fewer points, thus being ineligible for LOSAP service credit.
- Another volunteer firefighter was reported as having earned 47 points and was, therefore, not awarded LOSAP service credit. However, from our calculations, the volunteer firefighter should have earned 54 points and should have been awarded LOSAP service credit. The volunteer firefighter should have earned an additional 10 points for department responses, three more points for stand-bys and six fewer points for drills, with a net impact of seven more points.

When the point system is inconsistent with GML and the awarding of points is inconsistent with the point system, LOSAP service credit may not be properly awarded to volunteer firefighters.

Recommendations

The Board should:

1. Amend the District's point system to ensure it is consistent with GML.
2. Implement standards and procedures to ensure that points are accurately awarded and recorded.

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 Clerk's office.

We thank the officials and staff of the Mechanicstown Fire District for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo

APPENDIX A

RESPONSE FROM DISTRICT OFFICIALS

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

MECHANICSTOWN FIRE DISTRICT
50 RIDGEWOOD AVENUE
MIDDLETOWN, N.Y. 10940
TELE: 845-342-0017

August 19, 2014

State of New York
Office of the State Comptroller
110 State Street
Albany, NY 12236

**Corrective Action Plan
Regarding LOSAP Audit**

To Whom It May Concern,

The Board of Fire Commissioners of Mechanicstown Fire District has adopted the following course of corrective action in regard to findings during our audit:

- We have amended our point system so that it is consistent with General Municipal Law.
- We have adopted procedures to ensure that any and all points are awarded accurately and in compliance with our points system and General Municipal Law.

During our audit, the District was made aware of several errors in our point system. As a result, several firefighters were unknowingly awarded the incorrect number of points.

Our Fire District strives to ensure accuracy in all areas of our administration. We have amended our point system to comply with the findings and recommendations of the State as follows:

- 25 points are awarded to volunteers who respond to 7.5 percent or more of the annual number of fire calls, if the annual call volume is 500 points or greater. If calls are 500 calls or less, a volunteer will be awarded 10 points.
- Stand-by's have been assigned their own point category.
- Drill are worth 1 point each, with a 20 point maximum.

-Parades have been placed into the Miscellaneous Activities category, and have been assigned a 1 point credit.

-Company Functions/Events have been redefined to only include official meetings of the fire company. Any other Company Activities will be categorized under Miscellaneous Activities. Community Blood Drives will not be awarded any credit or points.

The Board of Fire Commissioners adopted this revised policy at their monthly meeting on March 26, 2014. This policy will take effect for the 2014 plan year. Please feel free to contact the District should you need any further information.

Very Truly Yours,

Frank Guardino
Chairman of the Board

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

To accomplish our objective, we interviewed District officials to gain a better understanding of the control environment at the District. Our steps included the following:

- We reviewed relevant documentation regarding the District's LOSAP, including policies and procedures, bylaws, Board minutes and other documents applicable to our audit objective.
- We tested the District's point structure in comparison to GML requirements.
- We compared the District's point system to the District's software system maintained for LOSAP credit and the reports from that software.
- We reviewed all attendance documentation for 10 volunteer firefighters at the District for 2012 and 2013 to determine whether the District's LOSAP software reports were reliable.
- We tested the software reports against the Board-approved list of volunteer firefighters receiving LOSAP service credit for all volunteer firefighters in 2012 and 2013 to determine if the volunteer firefighters were properly receiving LOSAP service credit in accordance with the District's point system and GML.