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February 6, 2015

Leigh MacKercher, Mayor
Village of Penn Yan
111 Elm Street, PO Box 426
Penn Yan, NY 14527

Jeff Housel, Fire Chief
Penn Yan Fire Department
125 Elm Street
Penn Yan, NY 14527

Report Number: S9-14-31

Dear Mayor MacKercher and Mr. Housel:

The Office of the State Comptroller works to help local 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 local 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) credits accurately. We included the Village of Penn Yan (Village) in this audit. Within the scope of this audit, we examined the 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 LOSAP established for the volunteer firefighters of the Village Fire Department (Department). We discussed the findings and recommendations with Village and Department officials and considered their comments, which appear in Appendix A, in preparing this report. Officials agreed with our findings and recommendations and plan to initiate corrective action. At the completion of our audit of the 10 fire 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 Village Board of Trustees (Village Board) did not ensure that volunteer firefighters received accurate LOSAP service credits. The Village's point system is applied in a manner that does not comply with New York State General Municipal Law (GML).¹ Further, the Department's software system used an incorrect percentage to award points for participation in Department responses in 2012, and the Department did not monitor the awarding of points. These weaknesses resulted in seven volunteer firefighters not receiving appropriate LOSAP service credit.

As a result, there is an increased risk that LOSAP service credit may not be awarded properly to volunteer firefighters.

Background and Methodology

The Village is a political subdivision located in Yates County and governed by the Village Board. The Department is located in the Village and is a separate not-for-profit organization which provides fire protection and other emergency services to the Village and also to the Towns of Barrington, Benton, Jerusalem and Milo. The Department is comprised of four fire companies and includes an emergency rescue and first aid squad that does not operate an ambulance. The Department is governed by the Village Board and a four-member Fire Board comprised of the Department's chief and three assistant chiefs.²

The appropriations for the Department in the Village's 2013 budget totaled approximately \$155,000. As of May 31, 2013, the LOSAP's assets totaled \$790,000. The 2012 LOSAP contribution was approximately \$83,000.

When a village sponsors a LOSAP, the village board is 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 village 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 village is under no obligation to include in its point system every activity specified in GML. Moreover, GML does not authorize a village to create priorities among the activities included in its point system by conditioning the granting of points for one activity on the accumulation of points for another activity.

¹ Our finding is based on the point system adopted by the Village Board that went into effect on January 1, 2012. We express no view as to whether the proper procedure was followed in adopting that point system because the issue is outside our audit scope (see GML Section 216[2][e]).

² We express no view as to whether the manner in which the Department is governed is consistent with law because the issue is outside our audit scope (see, e.g., New York State Village Law Section 10-1014).

Active volunteer firefighters earning 50 service award 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,³ each volunteer fire company is required to submit to the governing board of the political subdivision sponsoring the program a list, certified under oath, which identifies all their 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 2000, the Village created a defined-benefit LOSAP to facilitate recruiting and retaining active volunteer firefighters by providing a pension-like benefit based upon their years of firefighting service to the Village. In general, upon reaching entitlement age of 65, LOSAP participants receive a life annuity benefit guaranteed for at least 10 years. The benefit is \$20 a month for each year of firefighting service up to 30 years. In both 2012 and 2013, the LOSAP had 44 volunteer firefighters receiving annual LOSAP service credits.

We examined the Village’s and Department’s internal controls over the 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 Village operations within our audit scope. Further, those standards require that we understand the Village’s management controls and those laws, rules and regulations that are relevant to the Village’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

The governing board of a village sponsoring a LOSAP is required to adopt standards and procedures in conformance with GML for administering its LOSAP. The governing board should also 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 Village’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 Village’s point system allows points to be earned for training courses, drills, sleep-ins or stand-bys, elected or appointed positions, meetings, disability, participation in Department responses, miscellaneous activities and

³ On or before March 31

teaching fire prevention classes. The point system defines points per activity and maximum points for certain types of activities.

We found that the Village's point system is not applied in a manner that is consistent with GML. Further, the Department did not accurately record volunteer firefighters' point totals, which resulted in seven volunteer firefighters not receiving appropriate LOSAP service credit.

Drills – GML specifies the activities that may be used in awarding points toward earning a year of LOSAP service credit including, in most cases, the maximum points per activity and maximum points per activity category. A LOSAP point system, however, cannot create priorities among the activities for which points may be earned by conditioning the granting of points for one activity on the accumulation of points for another activity.

We found that there is an unwritten requirement whereby volunteer firefighters must attend at least six drills annually in order to qualify for and earn one year of LOSAP service credit. The effect of the unwritten requirement is to create an impermissible preference among the activities for which points may be earned, which resulted in two volunteer firefighters not receiving appropriate LOSAP service credit during our scope period.

When a point system is applied in a manner that is inconsistent with GML, volunteer firefighters may not receive LOSAP service credit to which they are entitled.

Credit Accuracy – The Village's current point system requires that, beginning in 2012, a year of firefighting service shall be credited under a LOSAP for each year after establishment of the program in which an active volunteer firefighter accumulates at least 50 points.

We found⁴ that four volunteer firefighters had not received the appropriate LOSAP service credit during the scope period because they either earned 50 points and did not receive service credit or failed to earn 50 points and received service credit anyhow. Specifically, based on our review:

- Two volunteer firefighters earned more than 50 points but did not receive LOSAP service credit. Department officials said that one volunteer firefighter was a veteran, which may have resulted in his not receiving credit, and the other was an oversight.
- One volunteer firefighter received one year of LOSAP service credit because the Department's records indicated that he had earned 50 points. However, we concluded that this volunteer firefighter only earned 49 points and, thus, should not have received one year of LOSAP service credit. Department officials could not provide documentation for the one activity in question.

⁴ We calculated the points the volunteer firefighters should have received by applying the Village's point system in a manner consistent with GML.

- One volunteer firefighter earned less than 50 points according to the Department's records and our review but was still awarded one year of LOSAP service credit. The Department explained that this was due to a lack of oversight.

These errors were caused by inaccurate records of volunteer firefighters' point accumulations and a lack of oversight, which resulted in volunteer firefighters not receiving the correct amount of LOSAP service credit.

Point Accuracy – The Village Board should ensure that accurate records are maintained detailing the point accumulations of the volunteer firefighters of the Department. The mechanism being used to record, track and report LOSAP point accumulations should be consistent with the Village's point system and GML. The Department uses an automated information technology system (Program) to track the LOSAP activities and the calculation of the awarding of points.

We found the Department did not accurately record volunteer firefighters' point totals. If a point system provides points for participation in Department responses, then GML requires volunteer firefighters to receive 25 points for responding to a statutorily prescribed minimum number of calls. The minimum number of responses is a percentage of the number of calls the fire department responds to annually, which varies depending on the department's call volume. For example, if a fire department responds annually to 500 or fewer calls, then a volunteer firefighter must respond to at least 10 percent of the calls to receive the points; if the department responds to between 500 and 1,000 calls, the minimum call percentage is 7.5 percent.

The Program used an incorrect percentage of calls in 2012 to determine the points awarded for participation in Department responses. The Program used a 15 percent minimum response criterion for awarding points for participation in Department responses while, based on the Department's call volume, the point system and GML require 10 percent. Because of this discrepancy, one volunteer firefighter who should have earned 56 points did not receive a year of LOSAP service credit.

Department officials attribute this issue to the Program using an earlier version of the point system, which required volunteer firefighters to respond to 15 percent or more calls to earn 25 points. Department officials provided the software vendor with the updated point system, effective January 2012; however, the changes were not appropriately implemented by the vendor.

In 2013, Department officials resolved the Program issue.

Recommendations

The Village Board should:

1. Ensure that the point system is applied in a manner consistent with GML.
2. Implement standards and procedures to ensure that a year of LOSAP service credit is granted when a volunteer firefighter earns 50 points and not granted when a volunteer firefighter earns less than 50 points.

3. Implement standards and procedures to ensure that point totals are accurately recorded and in accordance with the point system.

The Village 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, pursuant to Section 35 of GML. 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. We encourage the Village Board to make this plan available for public review in the Clerk's office.

We thank the officials and staff of the Village of Penn Yan and the Penn Yan Fire Department for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo

APPENDIX A

RESPONSE FROM VILLAGE OFFICIALS

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

Village of Penn Yan



on Keuka Lake

Mayor Leigh MacKerchar
Trustee William J. Allison
Trustee Carolyn Benedict
Trustee D. Christine Christensen
Trustee Robert J. Church
Trustee David Reeve
Trustee Richard D. Stewart
Clerk-Treasurer Gary Meeks

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Office of the State Comptroller
ATTN: Ann Singer
Binghamton Regional Office
State Office Building, Suite 1702
44 Hawley Street
Binghamton, NY 13901-4417

8 August 2014

Subject: LOSAP audit response and CAP

We generally concur with the findings in your audit and thank you for your in depth analysis of the Village's LOSAP program. The Village adopted resolution 76-2011 which approved the department point system; however an unwritten policy requiring members to attend 6 drills per year in order to qualify for LOSAP credit was utilized by the department. Software issues and input errors created inaccurate reports. The accuracy of these reports was not verified by the department or the village and not discovered until after submission and certification by the village. LOSAP was only given review by the village board when the annual report was submitted by the department.

As a result of these findings the following Corrective action plan (CAP) has been established:

1. Upgrades will be made to ensure accuracy of input and proper reporting. Input procedures by Department officials will be standardized and double checking for accuracy of input will be done.
2. Beginning immediately LOSAP credit will be given as stated in our approved LOSAP point system with no prioritization of categories or impermissible preference such as drill attendance used in the past.
3. Starting in September 2014 a quarterly audit/review of LOSAP records will be performed by the Public Safety committee of the village board. This committee will also perform an immediate review to ensure that proper and accurate credit is given to all entitled members.

Sincerely,

Leigh MacKerchar
Mayor, Village of Penn Yan
111 Elm Street
Penn Yan, NY 14527

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

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

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